

Exhibit F

In The Matter Of:

Texas Eastern v.

0.77 a Acres

COPY

Daniel Gans

February 12, 2015

Rizman Rappaport Dillon & Rose

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Texas Eastern v.
0.77 a Acres

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1	UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY CIVIL ACTION NO. 14-167 (SRC) (CLW)	1	I N D E X
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3		3	WITNESS NAME PAGE NO.
4	TEXAS EASTERN TRANSMISSION, LP, a Limited Partnership of the State of Delaware,	4	
5		5	DANIEL GANS
6		6	
7	Plaintiff	7	DIRECT EXAMINATION BY MR. ASH 6
8	v.	8	CROSS-EXAMINATION BY MR. WEGENER 154
9		9	
10	0.77 a ACRES OF LAND, MORE OR LESS, IN THE CITY OF JERSEY CITY, HUDSON COUNTY, NEW JERSEY, COLES JERSEY DEVELOPMENT, CO., LLC, OGDEN REALTY, CO., JANE AND JOHN DOES 1 through 50 (fictitious name defendants) and ABC BUSINESS ENTITIES, 1 through 50, (fictitious name defendants),	10	
11		11	
12		12	REQUESTS
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14		14	PAGE 27 LINE 18
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16	Defendants	16	PAGE 73 LINE 13
17		17	PAGE 85 LINE 12
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20	stenographic notes of SUSAN GIOFFRE, a Notary	20	PAGE 122 LINE 18
21	Public and Certified Court Reporter of the State	21	
22	of New Jersey, License No. XI001220, taken at the	22	
23	offices of DeCOTIIS, FITZPATRICK & COLE, LLP,	23	
24	500 Frank W. Burr Boulevard, Teaneck, New Jersey,	24	
25	on Thursday, February 12, 2015	25	
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1	A P P E A R A N C E S :	1	E X H I B I T S
2		2	
3	DeCOTIIS, FITZPATRICK & COLE, LLP	3	EXHIBIT NO. DESCRIPTION PAGE NO.
4	Glenpointe Centre West	4	
5	500 Frank W. Burr Boulevard	5	DG-1 Subpoena 8
6	Teaneck, New Jersey 07666	6	DG-2 Letter, 6/5/13 43
7	(201) 928-1100	7	DG-3 Letter, 10/24/13 62
8	mash@decotiislaw.com	8	DG-4 Closing Report 98
9	BY: MICHAEL J. ASH, ESQ.	9	DG-5 Release 109
10	Counsel for Plaintiff	10	DG-6 Agreement between Client and Architect 118
11		11	DG-7 Quote 119
12	BATHGATE, WEGENER, WOLF, PC	12	DG-8 Letter to Tax Assessor 123
13	One Airport Road	13	DG-9 City of Jersey City General Development Application 124
14	Lakewood, New Jersey	14	DG-10 Series of E-Mails 125
15	(732) 363-0666	15	DG-11-A Dresdner Robin Survey, Side 1 132
16	BY: PETER H. WEGENER, ESQ.	16	DG-11-B Dresdner Robin Survey, Side 2 132
17	Counsel for Ogden Realty	17	
18		18	
19	BUCHANAN, INGERSOLL & ROONEY, PC	19	
20	1290 Avenue of the Americas - 30th Floor	20	
21	New York, New York 10104-3001	21	
22	(212) 440-4435	22	
23	BY: CHRISTOPHER DALTON, ESQ.	23	
24	christopher.dalton@bipc.com	24	
25	Counsel for Witness, Daniel Gans	25	

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<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">E X H I B I T S</p> <table border="1"> <thead> <tr> <th>EXHIBIT NO.</th> <th>DESCRIPTION</th> <th>PAGE NO.</th> </tr> </thead> <tbody> <tr> <td>DG-12-A</td> <td>C.H. Acquisitions Survey, Side 1</td> <td>134</td> </tr> <tr> <td>DG-12-B</td> <td>C.H. Acquisitions Survey, Side 2</td> <td>134</td> </tr> <tr> <td>DG-12-C</td> <td>Note 13</td> <td>135</td> </tr> <tr> <td>DG-13-A</td> <td>Dresdner Robin Survey (Side 1)</td> <td>136</td> </tr> <tr> <td>DG-13-B</td> <td>Survey/Lot 7</td> <td>137</td> </tr> <tr> <td>DG-13-C</td> <td>Notes of Survey</td> <td>138</td> </tr> <tr> <td>DG-14-A</td> <td>Dresdner Robin Survey, 10/17/13</td> <td>138</td> </tr> <tr> <td>DG-14-B</td> <td>Area near Block 6005, Lot 7</td> <td>138</td> </tr> <tr> <td>DG-14-C</td> <td>Notes on Survey</td> <td>140</td> </tr> <tr> <td>DG-15-A</td> <td>Vicinity Survey</td> <td>146</td> </tr> <tr> <td>DG-15-B</td> <td>Sheet 5 of 18</td> <td>146</td> </tr> </tbody> </table>	EXHIBIT NO.	DESCRIPTION	PAGE NO.	DG-12-A	C.H. Acquisitions Survey, Side 1	134	DG-12-B	C.H. Acquisitions Survey, Side 2	134	DG-12-C	Note 13	135	DG-13-A	Dresdner Robin Survey (Side 1)	136	DG-13-B	Survey/Lot 7	137	DG-13-C	Notes of Survey	138	DG-14-A	Dresdner Robin Survey, 10/17/13	138	DG-14-B	Area near Block 6005, Lot 7	138	DG-14-C	Notes on Survey	140	DG-15-A	Vicinity Survey	146	DG-15-B	Sheet 5 of 18	146	<p>1 it would if you were testifying in a court of law 2 in front of a judge and a jury? 3 A. Yes, I do. 4 Q. I'll ask question, and if you could 5 wait until I ask the complete question before you 6 begin to respond, we'll have a nice clean 7 transcript of this proceeding. 8 If there's an objection to my 9 question, Mr. Dalton is here representing you; 10 please allow him to object, express the reason 11 for the objection, and then based on our 12 discussion you'll be directed to respond or not. 13 All your responses today need to be 14 audible, so a "Yes" or "No" is appropriate, a 15 shake of the head is not, so the court reporter 16 can understand your response. 17 Have you taken any medications or 18 substances this morning that would impair your 19 ability to comprehend or respond to my questions? 20 A. No, I have not. 21 Q. If there's a question of mine you 22 don't understand, please express that and I will 23 rephrase so that you do. 24 If you want a break just let me know, 25 I'm happy to accommodate anyone here.</p>	
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<p>1 DANIEL GANS, 2 305 Coles Street, Jersey City, New 3 Jersey, called as a witness, having 4 been first duly sworn according to 5 law, testifies as follows: 6 7 DIRECT EXAMINATION BY MR. ASH: 8 9 Q. Good morning. 10 A. Good morning. 11 Q. My name is Michael Ash. I'm an 12 attorney. I represent Texas Eastern 13 Transmission, LP in this matter. 14 You've been sworn. 15 Have you been deposed before? 16 A. Yes, I have. 17 Q. About how many times, to the best of 18 your recollection? 19 A. Five times, maybe. 20 Q. Well, since you've been deposed about 21 five times I think you have a general 22 understanding of the ground rules. 23 You've been sworn in today, so do you 24 understand that your testimony today is under 25 oath and will have the same weight and effect as</p>	<p>1 There are a lot of documents laid out 2 here. I don't think we're going to go too, too 3 long. I don't want to go all day. I know you're 4 busy, I'm busy. All right? 5 Let's get right into it. Let's mark 6 our first document. Let's mark this DG-1. 7 (Subpoena is received and marked as 8 Exhibit DG-1 for Identification.) 9 (Witness reviewing notes.) 10 Q. Okay. Mr. Gans, I've handed you a 11 document we've marked DG-1. It's titled 12 "Subpoena to Testify at Deposition in a Civil 13 Action." 14 Have you seen this document before? 15 A. Yes. 16 Q. And this subpoena directed you to 17 appear for a deposition back in November of 2014 18 which has been rescheduled for today. 19 Is that correct? 20 A. That's correct. 21 Q. And the subpoena directed you to bring 22 certain documents which are identified in the 23 document request in Exhibit A to the subpoena. 24 Have you reviewed those requests? 25 A. Yes.</p>																																					

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<p>Dans - Direct Page 9</p> <p>1 Q. We had an opportunity in December, I 2 believe December 16, 2014, to inspect documents 3 in your office at 305 Coles Street in Jersey 4 City. 5 Were those documents responsive to the 6 request in the subpoena? 7 A. Yes, they were. 8 Q. Are you aware of any other documents 9 that would not have been available at the 10 inspection of your records on December 16, 2014 11 that would otherwise be responsive to the 12 subpoena? 13 A. No, I am not. 14 Q. You said you've been deposed about 15 five times. 16 What were the previous occasions in 17 which your deposition was taken? 18 Let's start with the most recent. 19 A. The most recent was a case on a 20 project where the architect ended up suing the 21 developer. 22 Q. Where was that project? 23 A. Maxwell Place in Hoboken. 24 Q. And were you a fact witness or an 25 expert witness?</p>	<p>Dans - Direct Page 11</p> <p>1 A. That went to trial. 2 Q. Did you testify as a witness at trial? 3 A. Yes, I did. 4 Q. When was that? 5 A. The best of my recollection, 2005, 6 2006 maybe. 7 Q. What was the outcome of that 8 litigation? 9 A. The complaint had gone to the wrong 10 court. There was a result, but ultimately for 11 some reason it had gone to the wrong court, and 12 after that there was a settlement. 13 Q. Did you speak with anyone -- 14 A. Going back to another litigation 15 court. 16 Q. Did you speak with anyone prior to 17 your deposition today? 18 A. Yes. 19 Q. With whom did you speak? 20 A. I spoke to my attorney, Chris Dalton. 21 Q. Anyone else? 22 A. No. 23 Q. Did you review any documents to 24 prepare for your deposition today? 25 A. Not any specific documents, no.</p>
<p>Dans - Direct Page 10</p> <p>1 A. I was a fact witness. 2 Q. And what entity or -- were you 3 affiliated with an entity or were you 4 individually a party in that case? 5 A. I was affiliated with an entity. 6 Q. What entity was that? 7 A. Hoboken Find, LLC. 8 Q. And was that the developer of the 9 Maxwell House project? 10 A. That was the developer of the Maxwell 11 project. 12 Q. And prior to your deposition in the 13 Maxwell Place litigation, what was the litigation 14 in which you were deposed? 15 A. I think an insurance case on one of 16 our projects. 17 Q. And what projects? 18 A. I don't recall exactly. 19 Q. Do you remember what year? 20 A. Sometime in the '90s. 21 Q. What year was the Maxwell Place 22 litigation? 23 A. 2003, 2004. 24 Q. Did that litigation go to trial or did 25 it settle?</p>	<p>Dans - Direct Page 12</p> <p>1 Q. Did you review any documents to 2 prepare for the deposition today? 3 A. No. 4 Q. Did you write any of the court filings 5 in this litigation, Texas Eastern vs .077 Acres 6 of Land of New Jersey and Coles Jersey 7 Development? 8 A. I have not. 9 Q. You did, however, provide a 10 certification in this litigation. 11 Is that correct? 12 A. I believe so, yes. 13 Q. What's your date of birth? 14 A. 6/8/54. 15 Q. And what's your current address? 16 A. 67 Jefferson Street, Hoboken, New 17 Jersey 07030. 18 Q. You attended Gettysburg University? 19 A. Gettysburg College. 20 Q. College. 21 A. College. 22 Q. What year did you graduate? 23 A. 1977. 24 Q. And what degree did you earn there? 25 A. English literature.</p>

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Information

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1 110 Hoboken Urban Renewal, LLC?
2 A. That's correct.
3 Q. Are you a member of an entity called
4 Jersey Development Co., LLC?
5 A. Yes.
6 Q. Are you also a member of an entity
7 called Coles Street Park Development, Co., LLC?
8 A. Yes.
9 Q. When did you become a member of Coles
10 Jersey Development, Co., LLC?
11 A. To the best of my recollection,
12 September 2013.
13 Q. Are there other entities that you are
14 currently a member of?
15 A. Yes.
16 Q. What are those entities, to the best
17 of your recollection?
18 A. 39 New York Avenue and Van Leer Place,
19 LLC. There are others, but I can't recall right
20 now. I have to get a list. There are a few
21 others.
22 Q. Do you understand that the present
23 litigation, the litigation in which you're being
24 deposed today involves the condemnation of a
25 permanent easement of .770 acres of land on a

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1 through -- when that -- when we found out that
2 that was the desire of Texas Eastern, to use our
3 property, we contacted attorneys, an attorney, to
4 find out how best to deal with this issue and
5 decided subsequently to talk to the people at
6 Texas Eastern and negotiate a settlement with
7 them for use of our property.
8 Q. Now, that property that you described
9 as the Van Leer property, that was owned by
10 110 Hoboken Urban Renewal, LLC at the time?
11 A. Yes, it was.
12 Q. And that property is designated
13 Block 6005, Lot 2 on the tax map of Jersey City?
14 A. I believe so. I'd have to look.
15 Q. The street address would be 110
16 Hoboken Avenue in Jersey City?
17 A. No. The street address was 127 or 137
18 -- 127-137 Hoboken Avenue.
19 Q. And that's in Jersey City?
20 A. In Jersey City.
21 Q. What attorneys did you contact at that
22 time?
23 A. Ingersoll Buchanan.
24 Q. Who specifically?
25 A. Stanley Yorsz.

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1 portion of Lot 7, Block 6005 Jersey City by Texas
2 Eastern Transmission, LP?
3 A. Yes.
4 Q. Do you understand the acquisition of a
5 permanent easement is this litigation as part of
6 a larger project by Texas Eastern and Spectra
7 Energy?
8 A. Yes.
9 Q. If I refer to the pipeline project
10 developed by Spectra Energy and Texas Eastern
11 collectively as the "Texas Eastern Project,"
12 you'll understand what I mean, right?
13 A. Yes, I will.
14 Q. What do you know about the Texas
15 Eastern Pipeline Project?
16 A. Had a lot of opposition by the local
17 entities; Hoboken and Jersey City. The project
18 moved forward despite all of that.
19 We were contacted as owners at the
20 time of the entity called 110 Hoboken Avenue
21 which we also referred to as the Van Leer
22 Project.
23 At that time we were told that our
24 property was desired to be used for a staging
25 area and it would be used for a staging area

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1 Q. Do you remember the month and year
2 that you were contacted by Texas Eastern?
3 A. I don't know offhand.
4 Q. Do you recall who you interacted with
5 on behalf of Texas Eastern?
6 A. I think the first person I dealt with
7 was somebody by the name of Derrick. I can't
8 remember the last name.
9 And ultimately, I dealt with another
10 gentleman by the name of Bill Simmons.
11 Q. Do you recall speaking with Tom
12 Bartolozzi?
13 A. I do not.
14 Q. Do you recall speaking with Frank
15 Gessner?
16 A. I don't remember the name.
17 Q. You do recall speaking with Bill
18 Simmons?
19 A. Yes.
20 Q. And you understood him to be an agent
21 for Texas Eastern?
22 A. Yes.
23 Q. And ultimately, you negotiated a
24 settlement for the use of the Van Leer site for a
25 temporary staging area?

<p>Dans - Direct Page 21</p> <p>1 A. Yes.</p> <p>2 Q. You were also aware that Texas Eastern</p> <p>3 acquired permanent and temporary easements on the</p> <p>4 property known as Block 6005, Lot 13 formerly</p> <p>5 owned by Ogden Realty Company?</p> <p>6 A. Yes.</p> <p>7 Q. When did you first become aware that</p> <p>8 there was a pending condemnation action for</p> <p>9 temporary and permanent easements on Block 6005,</p> <p>10 Lot 13?</p> <p>11 A. Right around the same time that I was</p> <p>12 made aware that Texas Eastern wanted to use the</p> <p>13 110 Hoboken Avenue property.</p> <p>14 Q. Do you remember when that was?</p> <p>15 A. I don't remember exactly, but within a</p> <p>16 few years it would have been.</p> <p>17 Q. Hoboken Brownstone entered into a</p> <p>18 purchase and sale agreement with Ogden Realty</p> <p>19 Company to purchase Block 005, Lot 13, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Do you recall when that was?</p> <p>22 A. March of 2013.</p> <p>23 Q. When you entered into -- strike that.</p> <p>24 When Hoboken Brownstone entered into a</p> <p>25 purchase and sale agreement to purchase Block</p>	<p>Dans - Direct Page 23</p> <p>1 2013.</p> <p>2 Q. The purchase and sale agreement</p> <p>3 entered into between Hoboken Brownstone and Ogden</p> <p>4 Realty in 2007, was that terminated?</p> <p>5 A. Yes.</p> <p>6 Q. What was the reason for that</p> <p>7 termination?</p> <p>8 A. Litigation by the former purchaser.</p> <p>9 Q. Who was that former purchaser?</p> <p>10 A. Lance Lucarelli.</p> <p>11 Q. What was the outcome of that</p> <p>12 litigation?</p> <p>13 A. Ogden won the litigation.</p> <p>14 Q. Do you recall the purchase price in</p> <p>15 2007?</p> <p>16 A. It was a formula price and included an</p> <p>17 additional portion of another block.</p> <p>18 Q. What was the formula based on;</p> <p>19 density?</p> <p>20 A. Density, number of units that we would</p> <p>21 achieve. I think, to the best of my</p> <p>22 recollection, the price, the starting price or</p> <p>23 the base price, was 38, \$40 million.</p> <p>24 Q. That contract was subject to</p> <p>25 approvals?</p>
<p>Dans - Direct Page 22</p> <p>1 005, Lot 13 in March 2013, at that time were you</p> <p>2 aware there was a pending condemnation action</p> <p>3 to acquire permanent and temporary easements on</p> <p>4 Lot 13?</p> <p>5 A. Yes.</p> <p>6 Q. The purchase and sale agreement</p> <p>7 between Hoboken Brownstone and Ogden Realty and</p> <p>8 included additional properties as well, right?</p> <p>9 A. Yes.</p> <p>10 Q. To the best of your recollection, are</p> <p>11 those properties also Block 6003, Lots 2, 3 and</p> <p>12 4; Block 6004, Lots 1 and 2, Block 6005, Lot 13</p> <p>13 and a portion of Lot 7?</p> <p>14 A. Yes, that's my recollection.</p> <p>15 Q. How did the purchase and sale</p> <p>16 agreement between Hoboken Brownstone and Ogden</p> <p>17 Realty for what I will call collectively the</p> <p>18 Ogden Tracts (T-r-a-c-t-s), when did the</p> <p>19 negotiations begin for the purchase of the Ogden</p> <p>20 Tracts?</p> <p>21 A. Our relationship with Ogden went back</p> <p>22 to -- I should say the first time we entered into</p> <p>23 a contract with Ogden was in 2007 and we also</p> <p>24 entered into a contract with Ogden again in 2010,</p> <p>25 and the we entered, again, as I mentioned in</p>	<p>Dans - Direct Page 24</p> <p>1 A. That contract was subject to</p> <p>2 approvals.</p> <p>3 Q. Do you recall the minimum density in</p> <p>4 that contract?</p> <p>5 A. I do not.</p> <p>6 Q. What was the additional portion of an</p> <p>7 additional lot that was included in that</p> <p>8 contract?</p> <p>9 A. A block to the north of Block 6003 on</p> <p>10 Jersey Avenue, just to the north, between Jersey</p> <p>11 avenue and Coles.</p> <p>12 Q. Is that now the site for the Cast Iron</p> <p>13 Lofts?</p> <p>14 A. Yes. To clarify, it was the Cast Iron</p> <p>15 Lofts II. Cast Iron I, I believe, had already</p> <p>16 been sold.</p> <p>17 Q. When was the 2007 purchase and sale</p> <p>18 terminated?</p> <p>19 A. It's hard for me to remember exactly</p> <p>20 the dates. I think in the fall of 2013, early</p> <p>21 fall of 2007, I'm sorry, I'm so sorry, 2007.</p> <p>22 I'm getting my years mixed up.</p> <p>23 Q. The second purchase and sale agreement</p> <p>24 that was entered into between Hoboken Brownstone</p> <p>25 and Ogden Realty was in 2010?</p>

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<p>Dans - Direct Page 25</p> <p>1 A. Yes.</p> <p>2 Q. And what was the purchase price?</p> <p>3 A. To the best of my recollection, I</p> <p>4 believe it was 26 million, 28 million.</p> <p>5 Q. Did the purchase price in 2010 also</p> <p>6 include the Cast Iron Lofts space too?</p> <p>7 A. I believe it did.</p> <p>8 Q. And it also included the Ogden Tracts?</p> <p>9 A. Yes.</p> <p>10 Q. Was the purchase price in 2010 subject</p> <p>11 to approval?</p> <p>12 A. No.</p> <p>13 Q. How was the \$26 million purchase price</p> <p>14 in 2010 negotiated; was it also a formula?</p> <p>15 A. No.</p> <p>16 Q. When was the 2010 purchase and sale</p> <p>17 agreement terminated?</p> <p>18 A. Best of my recollection, maybe 90 days</p> <p>19 after it was signed.</p> <p>20 Q. Why was the 2010 purchase and sale</p> <p>21 agreement terminated?</p> <p>22 A. The equity that we thought would be in</p> <p>23 place to purchase it was not.</p> <p>24 Q. Did that purchase and sale agreement</p> <p>25 include a financing contingency?</p>	<p>Dans - Direct Page 27</p> <p>1 a price that was told to us.</p> <p>2 Q. Was the \$22 million purchase price in</p> <p>3 the agreement subject to approvals or</p> <p>4 development?</p> <p>5 A. No.</p> <p>6 Q. Was there some allocation of the</p> <p>7 entire purchase price of \$22 million per tract or</p> <p>8 per block and lot?</p> <p>9 A. No.</p> <p>10 Q. There was a written agreement -- there</p> <p>11 was a written contract between Hoboken and Ogden</p> <p>12 Realty as of March 2013?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know if you have retained a</p> <p>15 copy of that contract?</p> <p>16 A. My company, yes.</p> <p>17 Q. In my review of your files I didn't</p> <p>18 find a copy of that contract, so if you still</p> <p>19 have a copy I would like to be provided with a</p> <p>20 copy, please.</p> <p>21 MR. DALTON: Was that not in our</p> <p>22 production from Coles Jersey?</p> <p>23 MR. ASH: No.</p> <p>24 MR. DALTON: I thought it was.</p> <p>25 Q. Were there any contingencies in the</p>
<p>Dans - Direct Page 26</p> <p>1 A. No.</p> <p>2 Q. The 2013 purchase and sale was entered</p> <p>3 into you said in March 2013?</p> <p>4 A. To the best of my recollection, it was</p> <p>5 March.</p> <p>6 Q. The purchase price for the Ogden</p> <p>7 Tracts was \$22 million?</p> <p>8 A. That's correct.</p> <p>9 Q. How did you arrive at that purchase</p> <p>10 price in 2013?</p> <p>11 A. That was the price that Ogden told us</p> <p>12 that it would be sold for, that they would sell</p> <p>13 it for.</p> <p>14 Q. Was there a formula to arrive at the</p> <p>15 \$22 million purchase price?</p> <p>16 A. No.</p> <p>17 Q. So the purchase price in 2013 of</p> <p>18 \$22 million is not based on per unit value,</p> <p>19 residential unit?</p> <p>20 A. The contract?</p> <p>21 Q. The negotiation of the purchase price?</p> <p>22 A. It was not based on a per unit.</p> <p>23 Q. Was it based upon a per acre value?</p> <p>24 A. I can't -- I don't know what it was</p> <p>25 based on. As I mentioned, it was given -- it was</p>	<p>Dans - Direct Page 28</p> <p>1 purchase and sale agreement in 2013 between Ogden</p> <p>2 and Hoboken Brownstone?</p> <p>3 A. Define your thought of</p> <p>4 "contingencies."</p> <p>5 Q. What's your thought of a contingency?</p> <p>6 A. Subject to approvals would be a</p> <p>7 contingency, financial contingencies.</p> <p>8 Q. So these would be obligations on</p> <p>9 behalf of the party that would need to be</p> <p>10 satisfied prior to the closing?</p> <p>11 A. Correct.</p> <p>12 Q. So were there any obligations on</p> <p>13 behalf of the buyer that needed to be satisfied</p> <p>14 prior to the closing?</p> <p>15 A. No.</p> <p>16 Q. Are there any obligations on behalf of</p> <p>17 the seller that needed to be satisfied prior to</p> <p>18 the closing?</p> <p>19 A. No.</p> <p>20 Q. Was there a firm closing date in the</p> <p>21 purchase and sale agreement?</p> <p>22 A. Yes, there was.</p> <p>23 Q. What was that date?</p> <p>24 A. To the best of my recollection,</p> <p>25 June 28, 2013.</p>

<p>Dans - Direct Page 29</p> <p>1 Q. Was there some penalty or another 2 provision if there was no closing by June 28, 3 2013?</p> <p>4 A. If you called the penalty forfeiture 5 of deposit, I'm recalling right now, when we 6 talked about contingencies, and in the contract 7 there were what we would call "normal 8 contingencies" that the seller had to provide, 9 such as clear title and there may have been other 10 language in there that it needed to be -- it 11 needed to be acknowledged or understood better 12 that the seller had to provide -- you know, to 13 prove the legal ownership and that the title was 14 clear to be able to be sold.</p> <p>15 Q. What was the deposit made by Hoboken 16 Brownstone as the purchaser?</p> <p>17 A. To my recollection, just north of a 18 million dollars.</p> <p>19 Q. And if there was no closing by 20 June 28, 2013, that deposit of over a million 21 dollars would have been forfeited?</p> <p>22 A. Subject to the seller giving clear 23 title.</p> <p>24 Q. When Hoboken Brownstone entered into 25 the purchase and sale agreement, Hoboken</p>	<p>Dans - Direct Page 31</p> <p>1 A. An easement running from west to east 2 along 18th Street was the permanent easement in 3 about 50 feet from the property line, and a 4 temporary easement that covered that entire 5 block.</p> <p>6 Q. Had you reviewed a copy of that 7 easement as part of your due diligence leading up 8 to signing the purchase and sale agreement in 9 2013?</p> <p>10 A. I was aware of it. I don't recall 11 reviewing any specific document at that time.</p> <p>12 Q. Do you recall discussing the Texas 13 Eastern permanent and temporary easements on Lot 14 13 with your partner, George Vallone, in 2013?</p> <p>15 A. Yes.</p> <p>16 Q. What did you discuss with Mr. Vallone?</p> <p>17 A. The existence of the easement and I 18 discussed it with Mr. Vallone and with my 19 architects at the time.</p> <p>20 Q. What was the nature of that 21 discussion?</p> <p>22 A. To understand the implications of that 23 easement on the development.</p> <p>24 Q. What were the implications of that 25 easement on the development as you discussed it</p>
<p>Dans - Direct Page 30</p> <p>1 Brownstone, as an entity, consists of you and 2 your partner, George Vallone?</p> <p>3 A. Yes.</p> <p>4 Q. And were you both aware of the 5 permanent and temporary easements acquired by 6 Texas Eastern acquired on Lot 13 as of 7 March 2013?</p> <p>8 A. I was aware of the easement, permanent 9 easement and the temporary easement.</p> <p>10 Q. Your purchase of the Ogden Tracts in 11 the March 2013 purchase and sale agreement, was 12 that specifically subject to a permanent and 13 temporary easements acquired by Texas Eastern on 14 Lot 13?</p> <p>15 A. Yes.</p> <p>16 Q. Was there some adjustment of the 17 purchase price of \$22 million for the overall 18 Ogden Tracts due to the existence of the Texas 19 Eastern permanent and temporary easements on 20 Lot 13?</p> <p>21 A. I'm going to correct the question 22 again and say there was, but it was an easement 23 at that time.</p> <p>24 Q. What did you understand the easement 25 to be at that time?</p>	<p>Dans - Direct Page 32</p> <p>1 with Mr. Vallone and the architects in 2013?</p> <p>2 A. If it inhibited the -- it inhibited 3 what could be built on the site.</p> <p>4 Q. What was your understanding of how the 5 easements inhibited what could be built on 6 Lot 13?</p> <p>7 A. The easement prohibited the 8 construction of the wing of the building, an 9 11-story wing of the building as it appeared on 10 the zoning map, and portion of the seven-story 11 building that was on the -- that was also on the 12 zoning map.</p> <p>13 Q. Having an understanding that a 14 permanent and temporary easement inhibited 15 development of a portion of Lot 13, did you then 16 approach Ogden Realty for some adjustment of the 17 purchase price of \$22 million for the Ogden 18 Tracts?</p> <p>19 A. Yes. I pause only because there was a 20 mutual understanding between Ogden and us of this 21 existence, and I can't remember who brought up 22 the discussion first, but we discussed it.</p> <p>23 Q. Who discussed it?</p> <p>24 A. The discussions were primarily between 25 my partner, George Vallone, and Paul Hennessy.</p>

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<p>Dans - Direct Page 33</p> <p>1 Q. And do you recall what was discussed 2 between George Vallone and George Hennessy? 3 A. Yes. 4 Q. What was that discussion? 5 A. That the fair thing to do would be 6 that the temporary easement, upon the time of 7 ownership, would be split and that the permanent 8 easement value would be given to us. 9 Q. Given to the buyer? 10 A. To the buyer. 11 Q. Who is Paul Hennessy? 12 A. Paul is the CFO, I believe, of Ogden. 13 I don't know of Ogden -- of the company that 14 Ogden was helping to put together the deal for 15 Ogden. 16 Q. When did the discussion between 17 Mr. Vallone and Mr. Hennessy as to the impact of 18 the Texas Eastern easement on the purchase price 19 of the Ogden Tracts take place? 20 A. Maybe a week before we signed the 21 contract for purchase. 22 Q. Were the terms of a fair arrangement 23 discussed between Mr. Vallone and Mr. Hennessy of 24 an allocation of the temporary easement proceeds 25 and the buyer receiving an allocation for the</p>	<p>Dans - Direct Page 35</p> <p>1 compensation for the permanent and temporary 2 easements provided by Texas Eastern during the 3 executory period of the contract? 4 A. "Executory" meaning while it was in 5 effect? 6 Q. Yes. 7 A. Yes. 8 Q. What was that discussion? 9 A. I don't recall exactly the time that I 10 was made aware by Texas Eastern that there were 11 issues that they had with Ogden that included an 12 additional piece of property on lot 6005. 13 Texas Eastern made us aware of that 14 when they heard that we had -- I believe when 15 they had heard we had got into a contract with 16 Ogden. 17 Q. The additional property you're 18 referring to, is that the portion of Lot 7 on 19 Block 6005? 20 A. Yes. 21 Q. Ultimately, the contract between 22 Hoboken Brownstone and Ogden Realty was 23 terminated. 24 Is that right? 25 A. Yes.</p>
<p>Dans - Direct Page 34</p> <p>1 permanent easement compensation memorialized in 2 the March 2013 purchase and sale agreement? 3 A. Yes. 4 Q. So there was a specific provision in 5 the agreement between Ogden Realty and Hoboken 6 Brownstone allocating proceeds from a combination 7 of the permanent and temporary easements? 8 A. Yes. 9 Q. Was the term in the purchase and sale 10 agreement consistent with what you've outlined 11 today, to the best of your recollection? 12 A. To the best of my recollection, it is. 13 Q. Was there some discussion -- strike 14 that. 15 As the buyer, did you understand that 16 the litigation over the value of the permanent 17 and temporary easements were the just 18 compensation to the property owner for the 19 acquisitions of the permanent and temporary 20 easements by Texas Eastern was pending as of 21 March 2013? 22 A. Yes. 23 Q. Was there a discussion between Ogden 24 Realty, as seller, and Hoboken Brownstone, as 25 buyer, as to an acceptable amount of just</p>	<p>Dans - Direct Page 36</p> <p>1 Q. When was that terminated? 2 A. To the best of my recollection, the 3 date was June 28, 2013. 4 Q. Why was it terminated? 5 A. We were unable to meet the deadline 6 for the closing. 7 Q. When you say "we" who are you 8 referring to? 9 A. The first Hoboken Brownstone and we 10 had -- we had brought in a financial partner, 11 development partner, to finance the acquisition 12 and ultimately, they did not. 13 Q. Who was that financing partner? 14 A. Crescent Heights. 15 Q. During the contract period you became 16 aware that the Ogden Tracts may include a portion 17 of Lot 7, Block 6005? 18 A. It was always my understanding that 19 that was included in the Ogden Tracts. 20 Q. When did you first become aware that 21 Texas Eastern was interested in acquiring 22 inquiring an additional permanent easement on 23 Block 6005, a portion of Lot 7? 24 A. Sometime in late April, early May of 25 2013.</p>

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1 Q. What information or documents did you
2 review as to whether or not Ogden Realty actually
3 owned a portion of Lot 7, Block 6005?
4 A. Could you repeat the question, please?
5 (Question read back.)
6 A. I was shown a document by Bill
7 Simmons.
8 Q. Do you recall what the document was?
9 A. Bill met me in a diner close to my
10 office and showed me a diagram of that piece of
11 property.
12 Q. That was the Malibu Diner?
13 A. The Malibu Diner, yes.
14 Q. Did anyone else attend that meeting at
15 the Malibu Diner?
16 A. No.
17 Q. Do you recall Tom Bartolozzi attending
18 that meeting at the Malibu Diner?
19 A. I don't really recall exactly if it
20 was one or two people or if Bill brought anybody
21 with him.
22 We may have met a number of times to
23 discuss it and certainly he wasn't alone every
24 time.
25 Q. Do you recall Bill Simmons being

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1 Q. Were you aware of that settlement
2 offer made by Texas Eastern to Ogden Realty in
3 June of 2013 that included a permanent easement
4 on the additional Lot 7 portion?
5 A. Yes, that was shown to me that day.
6 Q. That was shown to you at the Malibu
7 Diner?
8 A. At the Malibu Diner.
9 Q. Do you recall that meeting taking
10 place on June 4, 2013?
11 A. I wouldn't recall the date, but that
12 sounds in the right timeframe.
13 Q. Do you recall the amount of that
14 offer?
15 A. It was a settlement offer and it came
16 out with a number on the bottom that was a total
17 settlement for the entire -- all the issues that
18 surrounded the Ogden Tracts.
19 I don't specifically recall exactly
20 the amount for that Lot 7.
21 Q. Regardless of the specific amount for
22 Lot 7, do you recall if the settlement offer
23 included easement rights as to a portion of
24 Lot 7?
25 A. Yes.

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1 joined by another representative of Texas Eastern
2 who had a moustache and a Texas accent and
3 perhaps a large hat?
4 A. I don't.
5 Q. Who told you that an easement on the
6 portion of Lot 7 could not be condemned because
7 it was not within the area authorized in the FERC
8 permit and to amend the FERC permit would be too
9 costly and time consuming?
10 A. Bill Simmons.
11 Q. You recall he specifically told you
12 that?
13 A. I don't. As I said, I don't recall if
14 there was other people at the meeting.
15 I knew Bill and he was the one who set
16 it up and somebody at that meeting told me.
17 Q. Someone at the meeting at the Malibu
18 Diner --
19 A. At the Malibu Diner.
20 Q. -- told you specifically --
21 A. Specifically.
22 Q. -- that the easement on the portion of
23 Lot 7 that Texas Eastern wanted could not be
24 condemned?
25 A. That's correct.

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1 Q. You have that specific recollection
2 that a settlement was conditioned on the grant of
3 permanent easement rights for a portion of Lot 7?
4 A. I was aware that Texas Eastern had
5 made an offer to Ogden of that nature, yes.
6 Q. Was the purpose of the meeting at the
7 Malibu Diner on June 4, 2013 or thereabouts to
8 make that same offer to you as the future buyer?
9 (Cell phone interruption.)
10 MR. ASH: Let's go off the record.
11 (Off record.)
12 (Question read back.)
13 A. Not specifically as the future buyer.
14 It was brought to my knowledge that Texas Eastern
15 needed or desired a settlement prior to the time
16 when the entity -- our contract would be
17 finalized and the purpose was that they felt
18 perhaps there was an opportunity for us to
19 persuade Ogden that perhaps it would be best to
20 work with Texas Eastern to achieve the greatest
21 value.
22 Q. Do you recall discussing Hoboken
23 Brownstone's future development plans of Lot 13
24 with representatives of Texas Eastern when you
25 met at the Malibu Diner?

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1 A. That was not part of the conversation.
2 Q. Do you recall telling a representative
3 of Texas Eastern that most of lot 13 would be
4 developed as a green area?
5 A. I have trouble with the lots, what
6 portion of Block 6005 was Lot 13, so without
7 seeing a survey or looking at a diagram, I can't
8 tell.
9 MR. ASH: I'm not going to mark this
10 just yet for, but the record directing the
11 witness' attention to a survey prepared by
12 Dresdner Robin for Coles Jersey Development
13 Co., LLC dated October 17, 2013.
14 Q. Reviewing this survey, do you see
15 Block 6005, Lot 13?
16 A. Yes.
17 Q. And does that refresh your
18 recollection as to the location of Lot 13 as
19 we've been discussing it?
20 A. Yes.
21 Q. And do you recall that is the property
22 on which Texas Eastern acquired a permanent and
23 temporary easement?
24 A. Yes.
25 Q. Do you recall during your meeting with

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1 but as I said, that was our hope.
2 Q. Did you say that on June 4, 2013?
3 A. I may have. I don't recall exactly
4 the conversations.
5 Q. Do you recall that topic being part of
6 the conversation with Texas Eastern at the Malibu
7 Diner?
8 A. It may have, yeah.
9 MR. ASH: Let's have this marked DG-2,
10 please.
11 (Letter, 6/5/13, is received and
12 marked as Exhibit DG-2 for Identification.)
13 Q. Mr. Gans, if you'll take a minute and
14 just review the document, the first page of what
15 we've marked DG-2.
16 (Witness reviewing exhibit.)
17 A. I don't remember one of these pages
18 right here, the fifth page DG 00244. I don't
19 remember that page. I may have had it. I don't
20 recall it. All the other documents I recall.
21 Q. Okay. DG-2 we have numbers.
22 At the bottom right, the first page is
23 DG 00246. Do you see that?
24 A. Yes.
25 Q. And do you understand that is a

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1 Texas Eastern representatives in the Malibu Diner
2 on or about June 4, 2013 that you indicated the
3 development on Lot 13 would be mostly for a green
4 area?
5 A. I may have said a portion of that
6 block would be developed for a green area as per
7 the redevelopment ordinance.
8 Q. Do you recall telling representatives
9 of Texas Eastern at the Malibu Diner on or about
10 June 4, 2013 that easement restrictions on Lot 13
11 would not impact density of development because
12 of variance from the city to be obtained to build
13 up higher and keep the same unit density?
14 A. I may have said that that was a
15 desire. I never take variances or anything of
16 that nature for granted. That was certainly a
17 hope.
18 Q. My question is not whether or not a
19 variance would be applied for or granted, but
20 whether or not you, specifically, told
21 representatives of Texas Eastern that the
22 easement restrictions on Lot 13 were not your
23 concern because variance relief would be
24 available?
25 A. I don't recall the exact conversation,

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1 reference to documents produced from your
2 office --
3 A. Right.
4 Q. -- from December 16, 2014?
5 A. Yup, yes.
6 Q. Do you recall receiving this letter,
7 which is Page 1, of DG-2 dated June 5, 2013 to
8 your attention from Mr. Franklin S. Gessner
9 Right-of-Way Project Manager for Texas Eastern?
10 A. Yes, yes.
11 Q. And do you see that this letter refers
12 to a meeting of June 4, 2013?
13 A. Yes.
14 Q. Does this refresh your recollection as
15 to whether or not you met with Texas Eastern
16 representatives on June 4, 2013 at the Malibu
17 Diner?
18 A. Yes, it does.
19 Q. Do you recall if Mr. Gessner was in
20 attendance at that meeting on June 4, 2013?
21 A. Yes, I do.
22 Q. Do you agree that this letter of
23 June 5, 2013 is an offer to Hoboken Realty (sic)
24 as the buyer of Lot 13 to settle the pending
25 condemnation action for the easements acquired on

<p>Dans - Direct Page 45</p> <p>1 Lot 13?</p> <p>2 A. It's to Hoboken Brownstone. It's to</p> <p>3 propose a settlement and I believe it was fully</p> <p>4 understood that, you know, we had no ability to</p> <p>5 ourselves to get into an agreement to accomplish</p> <p>6 what was desired.</p> <p>7 Q. The first sentence of the letter is</p> <p>8 directed to you and your associates as future</p> <p>9 owners of the property, correct?</p> <p>10 A. Correct.</p> <p>11 Q. And you indicated that a closing was</p> <p>12 scheduled for June 28, 2013?</p> <p>13 A. That's correct.</p> <p>14 Q. So would you agree the intention of</p> <p>15 this offer letter to you as the future owner of</p> <p>16 that property in a matter of weeks was to settle</p> <p>17 the pending condemnation action?</p> <p>18 A. As I said, it was understood that we</p> <p>19 did not have the ability to, as future owners, to</p> <p>20 make any agreement on the property and that all</p> <p>21 we were there to do was to be facilitators.</p> <p>22 Q. At of June 5, 2013, you had an</p> <p>23 interest as the buyer of the property and the</p> <p>24 result of the condemnation litigation, right?</p> <p>25 A. Yes.</p>	<p>Dans - Direct Page 47</p> <p>1 temporary work space which was calculated at</p> <p>2 \$83,149.55 per month for 18 months and is</p> <p>3 contingent on the future owners granting the</p> <p>4 additional easement depicted on drawing Plat</p> <p>5 HUD -- 98.3."</p> <p>6 Do you see that statement?</p> <p>7 A. Yes.</p> <p>8 Q. Do you recall that drawing, HUD-98.3,</p> <p>9 as of March 18, 2013 being enclosed with the</p> <p>10 letter?</p> <p>11 A. Yes.</p> <p>12 Q. And do you identify that enclosure to</p> <p>13 the letter of June 5, 2013 as being marked</p> <p>14 DG 00248 which is included in DG-2?</p> <p>15 A. Yes.</p> <p>16 Q. Did you respond to this offer letter?</p> <p>17 A. Yes.</p> <p>18 Q. What was your response?</p> <p>19 A. Our response was that as contingent</p> <p>20 future owners we didn't have any ability to enter</p> <p>21 into any agreements, though we would speak to</p> <p>22 Ogden regarding what had been laid out to us --</p> <p>23 to me.</p> <p>24 Q. To whom did you direct that response?</p> <p>25 A. Mr. Gessner and Mr. Simmons.</p>
<p>Dans - Direct Page 46</p> <p>1 Q. That was specifically addressed in the</p> <p>2 purchase and sale agreement which was in effect</p> <p>3 as of June 5, 2013?</p> <p>4 A. Yes, that's correct.</p> <p>5 Q. So any settlement of the condemnation</p> <p>6 action would have required your consent as well</p> <p>7 as Ogden Realty's consent as of June 5, 2013?</p> <p>8 A. I don't believe that's true.</p> <p>9 Q. Why don't you believe that's true?</p> <p>10 A. I think Ogden had the right to settle</p> <p>11 the litigation without our consent.</p> <p>12 Q. Why?</p> <p>13 A. They were the property owners. We</p> <p>14 were -- we would get our share of that</p> <p>15 settlement, but Ogden retained the right to make</p> <p>16 the settlement.</p> <p>17 Q. If we look at the first page of DG-2,</p> <p>18 the letter of June 5th, the second paragraph, the</p> <p>19 third sentence begins "Our offer of 3 million..."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. It reads, "Our offer of \$3 million was</p> <p>23 based on using the March 18, 2013 drawing and the</p> <p>24 breakdown of our offers is as follows: \$838,468</p> <p>25 for the permanent easement and \$1,496,692 for the</p>	<p>Dans - Direct Page 48</p> <p>1 Q. Was it by letter, was your response by</p> <p>2 e-mail, or was it by phone?</p> <p>3 A. I don't recall.</p> <p>4 Q. Did you discuss this offer letter of</p> <p>5 June 5, 2013 with anyone?</p> <p>6 A. Yes.</p> <p>7 Q. With whom?</p> <p>8 A. Firstly, Mr. Vallone, and then with</p> <p>9 Paul Hennessy.</p> <p>10 Q. What did you discuss with Mr. Vallone</p> <p>11 with regard to this June 5, 2013 offer letter?</p> <p>12 A. We discussed its existence and our</p> <p>13 belief that a settlement was a better outcome.</p> <p>14 Q. Better outcome than continuing --</p> <p>15 A. Then continuing litigation, and that</p> <p>16 there would be a greater value from a settlement.</p> <p>17 Q. Did you and Mr. Vallone have an</p> <p>18 opinion as to the fairness of this offer?</p> <p>19 A. We thought there might be an</p> <p>20 opportunity here to increase the offer that had</p> <p>21 been put on the table and thought that that</p> <p>22 seemed fair.</p> <p>23 Q. Did you discuss this offer with</p> <p>24 Mr. Vallone before you discussed the offer with</p> <p>25 Mr. Hennessy?</p>

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<p>Dans - Direct Page 49</p> <p>1 A. Yes.</p> <p>2 Q. What did you then discuss with</p> <p>3 Mr. Hennessy about this June 5, 2013 offer?</p> <p>4 A. Its existence and that we felt that a</p> <p>5 negotiated settlement would ultimately bring all</p> <p>6 parties more money than continued litigation.</p> <p>7 Q. What was Mr. Hennessy's response?</p> <p>8 A. Mr. Hennessy was open to discussing</p> <p>9 it.</p> <p>10 Q. Did you discuss the substance of the</p> <p>11 offer from Mr. Hennessy?</p> <p>12 A. Yes.</p> <p>13 Q. Did you discuss the amount of money</p> <p>14 offered?</p> <p>15 A. Yes.</p> <p>16 Q. What was the discussion as to the</p> <p>17 amount of money offered?</p> <p>18 A. That it was an offer and possibly</p> <p>19 going in and settling this; maybe there would be</p> <p>20 -- maybe we could push it up higher.</p> <p>21 Q. Was there a discussion as to a</p> <p>22 specific amount for a counteroffer to</p> <p>23 Mr. Hennessy?</p> <p>24 A. I don't recall.</p> <p>25 Q. How about Mr. Vallone?</p>	<p>Dans - Direct Page 51</p> <p>1 Mr. Hennessy?</p> <p>2 A. We made Crescent Heights aware of the</p> <p>3 offer.</p> <p>4 Q. With whom did you discuss the offer on</p> <p>5 behalf of Crescent Heights?</p> <p>6 A. I discussed that with Eric Hopkins at</p> <p>7 Crescent Heights.</p> <p>8 Q. Was Crescent Heights your partner or</p> <p>9 Hoboken Brownstone's partner as a purchaser or</p> <p>10 were they an assignee of the contract?</p> <p>11 A. They were an assignee of the contract.</p> <p>12 Q. And was Crescent Heights -- strike</p> <p>13 that?</p> <p>14 What was your discussion of the</p> <p>15 settlement offer with Crescent Heights?</p> <p>16 A. It was thought that this was an</p> <p>17 opportunity worth pursuing and that we felt --</p> <p>18 and because of this the amount of cash needed at</p> <p>19 the closing would be less than was required on</p> <p>20 the contract.</p> <p>21 Q. Was Crescent Heights, in response to</p> <p>22 the June 5, 2013 offer, willing to grant</p> <p>23 additional easement rights on the portion of</p> <p>24 Lot 7 as part of a settlement with Texas Eastern?</p> <p>25 A. I'm not sure they fully focused on it</p>
<p>Dans - Direct Page 50</p> <p>1 A. I don't think so.</p> <p>2 Q. Did you discuss with Mr. Hennessy the</p> <p>3 express contingency that the offer is based on</p> <p>4 additional permanent easement rights as to Lot 7?</p> <p>5 A. Yes.</p> <p>6 Q. What was that discussion?</p> <p>7 A. That due to Texas Eastern's desire to</p> <p>8 have that property and that that was needed, an</p> <p>9 agreement needed to be made very quickly if that</p> <p>10 was going to remain on the table because the work</p> <p>11 had progressed to that point or either a</p> <p>12 diversion had to be made or the easement had to</p> <p>13 be in place, and that it appeared to us and we</p> <p>14 were told by and shown by Mr. Gessner and</p> <p>15 Mr. Simmons that if is this -- if the easement</p> <p>16 wasn't granted it would be a substantial increase</p> <p>17 in the cost of the work associated with the buy</p> <p>18 and therefore, this opportunity was an</p> <p>19 opportunity that was existed at that point on</p> <p>20 June 4th or 5th and would be gone.</p> <p>21 And we thought because of that there</p> <p>22 was an opportunity to sit down and negotiate a</p> <p>23 settlement.</p> <p>24 Q. Did you discuss the June 5th offer</p> <p>25 with anyone else besides Mr. Vallone and</p>	<p>Dans - Direct Page 52</p> <p>1 at Crescent Heights at that moment.</p> <p>2 Through our correspondence we -- we,</p> <p>3 Mr. Vallone and myself, believed that Crescent</p> <p>4 Heights was on board with the concept.</p> <p>5 Q. Was there any discussion between you</p> <p>6 and Mr. Vallone or a representative of Crescent</p> <p>7 Heights as to any adverse impact on the</p> <p>8 development potential of the Ogden Tracts due to</p> <p>9 the additional permanent easements rights to be</p> <p>10 granted on Lot 7?</p> <p>11 A. Yes.</p> <p>12 Q. What was that discussion?</p> <p>13 A. Our feeling was that the size of the</p> <p>14 property wasn't that great and the hope that</p> <p>15 amendments to the redevelopment ordinance would</p> <p>16 allow for additional height that there may be no</p> <p>17 effect of this.</p> <p>18 Q. Your discussion with Crescent Heights</p> <p>19 was that there may be no adverse impact to the</p> <p>20 development potential of the Ogden Tracts as a</p> <p>21 result of the additional permanent easement on a</p> <p>22 portion of Lot 7?</p> <p>23 A. I said that specifically to</p> <p>24 Mr. Vallone. I do believe we made it aware to</p> <p>25 Crescent Heights. I'm not sure that Crescent</p>

<p>Dans - Direct Page 53</p> <p>1 Heights focussed on it.</p> <p>2 Q. Let's turn Page DG 00247. It's the</p> <p>3 second page of DG-2.</p> <p>4 Did you prepare this?</p> <p>5 A. No.</p> <p>6 Q. Do you know who prepared this?</p> <p>7 A. Spectra Energy.</p> <p>8 Q. Was this included as part of the</p> <p>9 June 5, 2013 letter?</p> <p>10 A. Yes.</p> <p>11 Q. And if I go to the next page,</p> <p>12 DG 00248, this was also included with the June 5,</p> <p>13 2013 letter?</p> <p>14 A. Yes, it was.</p> <p>15 Q. If we go to Page DG 00244, you're not</p> <p>16 sure where the page came from?</p> <p>17 A. No.</p> <p>18 Q. Do you recognize this page as coming</p> <p>19 from your files?</p> <p>20 A. It seems to be, but I'm not sure if it</p> <p>21 has anything to do with these documents.</p> <p>22 Q. You don't recall preparing this</p> <p>23 Document 244?</p> <p>24 A. This is the type of information that</p> <p>25 we do collect. As I mentioned, we had this new</p>	<p>Dans - Direct Page 55</p> <p>1 Q. Do you know whose notations those are?</p> <p>2 A. To the best of my recollection,</p> <p>3 Mr. Gessner or Mr. Simmons made those on the</p> <p>4 document at some point.</p> <p>5 Q. Where it says "\$2,002,205" and it says</p> <p>6 "To: (110)," do you know what that refers to?</p> <p>7 A. That's the number that Spectra felt we</p> <p>8 should get from Ogden, which was really</p> <p>9 meaningless to us.</p> <p>10 Q. So you understand 110 to mean Hoboken</p> <p>11 Brownstone as the purchaser of the Ogden Tracts?</p> <p>12 A. I do.</p> <p>13 Q. And when it says below that "Previous</p> <p>14 Owner", is it your understanding that it refers</p> <p>15 to Ogden Realty?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall attending a meeting on</p> <p>18 June 13 at the office of Texas Eastern in Jersey</p> <p>19 City?</p> <p>20 A. Yes.</p> <p>21 Q. Who attended that meeting?</p> <p>22 A. Mr. Vallone, myself, Paul Hennessy,</p> <p>23 Peter Wegener, and I don't recall the names of</p> <p>24 the attorneys or the representatives from Texas</p> <p>25 Eastern that were there.</p>
<p>Dans - Direct Page 54</p> <p>1 property, the Coles Street property, under</p> <p>2 contract a number of times, and it appears to be</p> <p>3 a summation of our costs up to that day, but I --</p> <p>4 again, I don't know if it had anything to do or</p> <p>5 if this just slipped into these pages because I</p> <p>6 don't believe it was part of this package.</p> <p>7 Q. While you are not specifically</p> <p>8 familiar with Document 244, is it fair to say</p> <p>9 that reviewing this document today, to the best</p> <p>10 of your recollection, your costs of \$412,300.37</p> <p>11 for the purchase of the Ogden Tracts is reflected</p> <p>12 in this document?</p> <p>13 A. Yes.</p> <p>14 Q. Let's turn to the last page of DG-2,</p> <p>15 please. This document has a Bates stamp number</p> <p>16 • DG 02445.</p> <p>17 Have you seen this document before?</p> <p>18 A. Yes.</p> <p>19 Q. Did you prepare this document?</p> <p>20 A. No.</p> <p>21 Q. Do you know who prepared this</p> <p>22 document?</p> <p>23 A. Spectra Energy.</p> <p>24 Q. Do you see some handwritten notations?</p> <p>25 A. Yes.</p>	<p>Dans - Direct Page 56</p> <p>1 It may have been Mr. Gessner.</p> <p>2 I don't recall.</p> <p>3 Q. Do you recall if a sign-in sheet was</p> <p>4 circulated?</p> <p>5 A. Yes.</p> <p>6 Q. Was there a sign-in sheet circulated?</p> <p>7 A. I believe there was, yes.</p> <p>8 Q. Did you retain a copy of that sign-in</p> <p>9 sheet?</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you recall who circulated that</p> <p>12 sign-in sheet?</p> <p>13 A. I don't recall.</p> <p>14 Q. In addition to the individuals that</p> <p>15 attended the meeting that you specifically</p> <p>16 recall, you recall generally that there were</p> <p>17 representatives of Texas Eastern present?</p> <p>18 A. Yes.</p> <p>19 Q. Was Bill Simmons there?</p> <p>20 A. No.</p> <p>21 Q. Do you know if Mr. Gessner was there</p> <p>22 on behalf of Texas Eastern?</p> <p>23 A. I don't recall.</p> <p>24 Q. Do you recall if counsel on behalf of</p> <p>25 Texas Eastern was present?</p>

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<p>Dans - Direct</p> <p>Page 57</p> <p>1 A. Yes. 2 Q. Were they with my firm? 3 A. Yes. 4 Q. Do you recall if it was Jeff Smith? 5 A. I don't recall the name. 6 Q. Do you recall if John Bauer attended 7 on behalf of Texas Eastern? 8 A. The name is familiar. 9 Q. Do you recall anyone else attended the 10 meeting? 11 A. There may have been another person 12 from Texas Eastern. 13 Q. Who suggested having the meeting? 14 A. Myself and Mr. Vallone. 15 Q. Why did you attend the meeting? 16 A. To assist as an intermediary and, 17 obviously, an interested party in the settlement. 18 Q. You were an intermediary between? 19 A. Ogden and Texas Eastern. 20 Q. Did you understand Mr. Wegener to be 21 representing Ogden Realty in the scope of the 22 condemnation litigation that was pending at the 23 time? 24 A. Yes. 25 Q. What was discussed at that meeting on</p>	<p>Dans - Direct</p> <p>Page 59</p> <p>1 Q. Do you recall the amount of the 2 counteroffer by Ogden Realty? 3 A. I don't recall where we started. 4 Q. Do you recall if the counteroffer by 5 Ogden Realty was a sum of money to settle the 6 pending condemnation for permanent and temporary 7 easements on Lot 13 as well as compensation for 8 additional permanent easement rights on Lot 7? 9 A. Yes. 10 Q. Do you recall a settlement being 11 reached at the June 13, 2013 meeting as to the 12 pending condemnation of permanent and temporary 13 easements on Lot 13 that included additional 14 permanent easement rights on Lot 7? 15 A. Yes. 16 Q. Do you recall the amount of that 17 settlement? 18 A. I don't recall the exact amount. I 19 have a hunch in my mind. 20 Q. If I told you the amount was 21 three-and-a-half million dollars, would that 22 refresh your recollection as the settlement 23 amount? 24 A. Yes, it would, that was the amount. 25 Q. Was there some negotiation back and</p>
<p>Dans - Direct</p> <p>Page 58</p> <p>1 June 13, 2013? 2 A. A settlement offer which included the 3 lot that we were told Texas Eastern did not have 4 a -- the opportunity to condemn. 5 Q. A specific discussion of the 6 settlement meeting was to settle the pending 7 condemnation on Lot 13 as well as a grant of 8 additional permanent easement rights to Texas 9 Eastern on a portion of Lot 7? 10 THE WITNESS: Could you read that 11 again? 12 (Question read back.) 13 A. Yes. 14 Q. What was the discussion that took 15 place that day? 16 A. A discussion about values. 17 Q. At that point Texas Eastern had made a 18 \$3 million settlement offer, correct? 19 A. Correct. 20 Q. And that also included additional 21 permanent easement rights on Lot 7? 22 A. Yes, correct. 23 Q. Was a counteroffer on behalf Ogden 24 Realty made at the June 13, 2013 meeting? 25 A. Yes.</p>	<p>Dans - Direct</p> <p>Page 60</p> <p>1 forth before the amount of three-and-a-half 2 million dollars was agreed to by all parties? 3 A. Yes. 4 Q. How long did that conversation take 5 place or how long did that negotiation take 6 place? 7 A. Two or three hours. 8 Q. Were there a number of offers and 9 counteroffers in the midst of that two-hour or so 10 negotiation session? 11 A. Yes. 12 Q. Who accepted the offer of 13 three-and-a-half million dollars for the 14 condemnation of the permanent and temporary 15 easements on Lot 13 and the additional permanent 16 easement rights on Lot 7 on behalf of Ogden? 17 A. Paul Hennessy. 18 Q. Were you or George Vallone consulted 19 by Mr. Hennessy in accepting that offer prior to 20 his acceptance to Texas Eastern? 21 A. Yeah. 22 Q. Was that in a separate discussion away 23 from Texas Eastern and their counsel? 24 A. Yes. 25 Q. What was discussed amongst you and</p>

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1 Mr. Hennessy as to the three-and-a-half million
2 dollar offer?
3 A. How the funds would be shared.
4 Q. What were the arrangements of how the
5 three-and-a-half million dollar settlement amount
6 would be allocated?
7 A. There were a number of formulas that
8 we came up with, but it virtually came out to
9 about a 50-50 deal.
10 Q. So to the best of your recollection,
11 during the break-out session, if you will, of the
12 overall settlement meeting, you discussed a 50-50
13 allocation of three-and-a-half million dollars
14 with Mr. Hennessy?
15 A. Yes.
16 Q. And do you specifically recall that
17 settlement amount being conditioned on a grant of
18 permanent easement rights as to a portion of
19 Lot 7?
20 A. Yes.
21 Q. Was the allocation of the settlement
22 amount ever reduced to writing between the
23 parties?
24 A. At that meeting or --
25 Q. After that meeting.

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1 Q. Who is Ray?
2 A. Ray is my brother-in-law and Francis
3 is the son -- Ray is the son-in-law and Francis
4 is the son of Frank Walsh.
5 Q. Who is Frank Walsh?
6 A. Frank Walsh was the -- a principal of
7 Ogden, the father of Francis, and at that time I
8 guess head of NRT Trucking which is the main
9 company of Ogden.
10 Q. Do you know Rays' full name?
11 That's not Ray Walsh, is it?
12 A. No, I can't recall right now.
13 Q. How about Francis?
14 A. Francis is a Walsh.
15 Q. Francis is a Walsh.
16 Do you recall receiving this e-mail?
17 A. Yes.
18 Q. Did you collaborate with Mr. Vallone
19 in drafting this e-mail?
20 A. Yes.
21 Q. You see in Paragraph 2, No. 2, it says
22 "If Ray and Francis agree with us to sell the
23 Spectra the extra easement area so they don't
24 have to bend the pipe, Spectra is proposing to
25 pay us \$225,060 for the price of this additional

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1 A. I wasn't made aware of that.
2 MR. ASH: Let's mark this DG-3,
3 please.
4 (Letter, 10/24/13, is received and
5 marked as Exhibit DG-3 for Identification.)
6 Q. Take a look at Page 2 of what we've
7 marked DG-3.
8 (Witness reviewing exhibit.)
9 Q. Have you reviewed Page 2 of DG-3?
10 A. Yes.
11 Q. Do you recall e-mail correspondence
12 between George Vallone and Paul Hennessy with
13 regard to the settlement offer condemnation by
14 Texas Eastern?
15 A. Yes.
16 Q. Do you see on Page 2 there's an
17 excerpt from an e-mail from George Vallone to
18 Paul Hennessy?
19 A. Yes.
20 Q. Do you recall receiving this e-mail or
21 being copied on this e-mail?
22 A. Yes.
23 Q. When it refers to "Ray and Francis,"
24 do you know who that refers to?
25 A. Yes.

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1 permanent easement plus pay an additional
2 \$664,840 as a settlement offer."
3 Who worked out the different amounts
4 of the settlement components in this e-mail?
5 A. Texas Eastern and Spectra.
6 Q. In the next sentence it says -- I'm
7 sorry, were you finished?
8 A. Yeah, Spectra was the one who had the
9 numbers, the dollar values, had proposed the
10 dollar values.
11 Q. Spectra, out of the overall settlement
12 offer, allocated different amounts based on the
13 various easement locations and easement
14 interests?
15 A. That's correct.
16 Q. And it was your understanding that the
17 additional permanent easement area was the Lot 7
18 portion of the Ogden Tracts?
19 A. Yes.
20 Q. The \$225,060, was that based on the
21 allocation of the Lot 7 additional permanent
22 easement from the \$3 million settlement offer?
23 A. I don't recall that exactly. I would
24 have to look at the numbers again.
25 Q. The next sentence in that Paragraph 2

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<p>Dans - Direct Page 65</p> <p>1 in the e-mail reads, "Since it would be an 2 additional permanent easement area, we would get 3 the \$225,060." 4 Do you see that? 5 A. Yes. 6 Q. This is you and Mr. Vallone proposing 7 to receive compensation for the permanent 8 easement area on Lot 7 that wasn't part of the 9 initial condemnation? 10 A. Yes. 11 Q. What was your reasoning for that 12 allocation? 13 A. Well, the reason was the same reason 14 that -- why we believed a settlement, an overall 15 settlement would be better to get into at this 16 time and the offers would be better from Texas 17 Eastern at this time to the overall settlement. 18 It wasn't just the one number, it was 19 the entirety of it that we were focused on. 20 Q. At the bottom of the page, Page 2 of 21 DG-3, that begins "June 24, 2013..." 22 A. Yup. 23 Q. Do you see an allocation of a 24 settlement amount of \$3,500,000? 25 A. Yes.</p>	<p>Dans - Direct Page 67</p> <p>1 included into the allocation was the value that 2 Spectra put on a settlement. 3 Q. Based on the e-mail from Mr. Vallone 4 there was an allocation made by Mr. Vallone as to 5 the overall settlement value, correct? 6 A. These numbers didn't come from 7 Mr. Vallone. These were the numbers that were 8 derived at the meeting. These were not values 9 that we just divided this up. This is the way it 10 was being proposed to us. 11 Q. But there's a proposal in the e-mail 12 from Mr. Vallone where he says "Since it would be 13 an additional permanent easement area, we would 14 get the \$225,060." 15 Do you see that? 16 A. That's correct. 17 Q. So there's an allocation based on the 18 different easements and Mr. Vallone proposing to 19 get the benefit of certain compensation for 20 certain allocated easement amounts, right? 21 A. Yes, but it goes on, as it says, that 22 there's other parts of this that made it even 23 more viable to want to pursue this. It wasn't 24 just getting the two and a quarter. 25 Q. Who is Sharon Christenbury or</p>
<p>Dans - Direct Page 66</p> <p>1 Q. Is this allocation consistent with the 2 settlement allocation between Texas Eastern and 3 Ogden Realty of which you agreed to on behalf of 4 Crescent Heights? 5 A. Yes. 6 Q. Where it says "Allocation for 7 additional permanent taking, \$255,000," is that 8 referring to the same allocation in the e-mail 9 from George Vallone that there's an additional 10 permanent easement allocation to be paid to the 11 buyer? 12 A. Yes. 13 Q. So of the agreed to settlement amount, 14 the allocation for the additional permanent 15 easement rights on the portion of Lot 7, 16 Block 6005 was \$255,000? 17 A. We looked at it as an entirety and the 18 value was -- the dollars, as they were written 19 down here, weren't important to us. 20 Rather what was important to us was 21 the overall settlement. 22 And that's how we looked at it, that 23 it was broken up like this by whoever decided 24 these were the values wasn't really as important 25 as the total settlement, and it -- certainly</p>	<p>Dans - Direct Page 68</p> <p>1 Chrisberry? 2 A. Sharon was an attorney for Crescent 3 Heights. 4 Q. What is CH Acquisitions II, LLC? 5 A. That was the name Crescent Heights was 6 using to acquire the property. 7 Q. That's a legal entity? 8 A. I believe it is. 9 Q. Hoboken Brownstone Company signed the 10 purchase and sale agreement with Ogden Realty to 11 an entity, right? 12 A. Yes. 13 Q. Is that the entity -- 14 A. Yes. 15 Q. -- that the agreement was assigned to? 16 A. I believe so, yes. 17 Q. What was the relationship between CH 18 Acquisitions II, LLC and Hoboken Brownstone as of 19 June 2013? 20 A. I don't recall exactly our 21 relationship. We were under contract with 22 Crescent Heights, so I don't recall exactly if it 23 was the same entity, it may have been, to 24 purchase the 110 property. 25 Now, there was an agreement regarding</p>

<p>Dans - Direct Page 69</p> <p>1 that property with Crescent Heights, but I'm not 2 -- I don't really recall exactly what our 3 relationship was with CH II, if there was no -- 4 I better leave it like that. I really 5 don't recall exactly what our relationship was at 6 that time. They certainly were under contract 7 with us to purchase 110. 8 Q. Was Hoboken Brownstone Company still 9 under contract to purchase the Ogden Tracts with 10 Crescent Heights as of June 2013? 11 A. We had assigned our rights under the 12 contract to Crescent Heights. 13 Q. When did that assignment take place? 14 A. Within ten days or less of the signing 15 of the contract. 16 Q. Within ten days of signing the 17 contract between Ogden Realty Company and Hoboken 18 Brownstone? 19 A. Correct. 20 Q. Was there additional consideration for 21 that assignment between Hoboken Brownstone and 22 Crescent Heights? 23 A. No. 24 Q. Do you have a copy of the assignment 25 of the purchase and sale agreement from Hoboken</p>	<p>Dans - Direct Page 71</p> <p>1 A. No. 2 Q. What was your understanding of your 3 authority as an agent on behalf of Crescent 4 Heights between signing the assignment of the 5 purchase and sale agreement from Ogden until 6 June 28, 2013? 7 THE WITNESS: I'm going to ask that 8 you repeat that, please. 9 (Question Read Back.) 10 A. To make Crescent Heights as 11 comfortable as possible with the transaction. 12 Q. Did you have authority to sign binding 13 documents on behalf of Crescent Heights during 14 the period between the assignment of the Ogden 15 purchase and sale agreement of June 28, 2013? 16 A. We had no written authority. 17 Q. While you had no written authority 18 it's your understanding you had authority, 19 nonetheless, to be an agent for Crescent Heights? 20 A. Yes. 21 Q. Who is William Ackman? 22 A. He's a gentleman we've known for many 23 years. I first met him in 1984, '85 -- no, maybe 24 it was after that, '86 or '87. 25 He's the son of Larry Ackman, who we</p>
<p>Dans - Direct Page 70</p> <p>1 Brownstone to Crescent Heights? 2 A. I'm sure we did. I don't recall if we 3 still have that document. I don't know where to 4 find it quickly, but it may have come up. 5 Q. To the extent that you maintain a copy 6 of that assignment in your records, I would like 7 a copy of that as well. 8 A. Okay. 9 Q. What's Jersey City North, LLC? 10 A. I don't recall. 11 Q. Are you personally or have you ever 12 been a member of the entity known as Jersey City 13 North, LLC? 14 A. Not to my recollection. 15 Q. Is Hoboken Brownstone Company an agent 16 for Crescent Heights from the time the purchase 17 and sale agreement with Ogden was assigned to 18 Crescent Heights until the agreement was 19 terminated on June 28, 2013? 20 A. Yes, we were working on their behalf. 21 Q. Was Hoboken Brownstone working on 22 behalf of Crescent Heights through some legal 23 documents whether, a Power of Attorney, an 24 express delegation of authority in the assignment 25 or some other document?</p>	<p>Dans - Direct Page 72</p> <p>1 met first, who is the principal of a mortgage 2 broker company in Manhattan. 3 William Ackman ended up, after we had 4 met him going back to school, graduate school, 5 and ultimately started a hedge fund in Manhattan, 6 and that hedge fund invested in a development 7 with us in the late '90s, and Mr. Ackman now has 8 another hedge fund. 9 Q. What was the project that Mr. Ackman 10 invested with you in early '90s? 11 A. Maxwell House, the Maxwell House 12 factory in Hoboken. 13 Q. What was Mr. William Ackman's role in 14 the Maxwell House project? 15 A. He was an investor. 16 Q. Was there any amendment to the 17 purchase and sale agreement between Ogden Realty 18 and Hoboken Brownstone as assigned to Crescent 19 Heights between March 2013 and June 28, 2013? 20 A. Not to my recollection. 21 Q. Was the settlement for the Texas 22 Eastern condemnation and the additional permanent 23 easement area on Lot 7 memorialized in a writing 24 as to an allocation between Ogden Realty, Hoboken 25 Brownstone, and Crescent Heights?</p>

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- 1 A. Yes, I believe there was.
- 2 Q. Do you recall what that document
- 3 consisted of?
- 4 A. No.
- 5 Q. Do you recall who drafted that
- 6 document?
- 7 A. No.
- 8 Q. Do you recall signing that document?
- 9 A. I don't recall.
- 10 Q. You do recall seeing a document,
- 11 however?
- 12 A. Yes, I do.
- 13 Q. Was that document created, negotiated,
- 14 finalized prior to June 28, 2013?
- 15 A. I believe it was, yes.
- 16 Q. Do you maintain a copy of that
- 17 agreement?
- 18 A. If I haven't produced it, I don't
- 19 think I have a copy.
- 20 Q. Well, I did not find a copy in your
- 21 files, nor was there one produced, so to the
- 22 extent that you have retained a copy, I ask for a
- 23 copy.
- 24 A. Okay.
- 25 Q. The purchase and sale agreement

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- 1 ability to convey clear title?
- 2 A. Their objection was Lot 7 was unclear
- 3 who the ownership was of that lot.
- 4 Q. What documents did Crescent
- 5 review in forming an opinion that Ogden did not
- 6 have clear title to Lot 7?
- 7 A. There were questions on surveys.
- 8 Q. Did you discuss the questionable title
- 9 as to Lot 7 with either counsel or
- 10 representatives of Crescent Heights?
- 11 A. Yes.
- 12 Q. What did you discuss with the
- 13 representatives of Crescent Heights with regard
- 14 to the cloud on the title for Lot 7?
- 15 A. We believed that there was not a cloud
- 16 on the title and the error was really something
- 17 that was that -- had not properly been picked up
- 18 by the surveyor.
- 19 Q. It was your opinion at that time that
- 20 Ogden Realty had title to a portion of Lot 7?
- 21 A. Yes.
- 22 Q. And Crescent Heights disagreed with
- 23 your opinion as to the title of Lot 7?
- 24 A. They felt there was still questions
- 25 regarding that.

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- 1 between Ogden Realty and Hoboken Brownstone as
- 2 assigned to Crescent Heights was terminated on
- 3 June 28, 2013?
- 4 A. That's correct.
- 5 Q. Did you already testify today that it
- 6 was because there was a lack of financing
- 7 available to close on the property?
- 8 A. There was a dispute with Crescent
- 9 Heights. They felt that they -- the owner didn't
- 10 have clear title and that was the reason Crescent
- 11 Heights ultimately said was the reason that they
- 12 weren't closing.
- 13 Q. Crescent Heights terminated the
- 14 agreement because the seller could not provide
- 15 clear title?
- 16 A. Yes.
- 17 Q. Was their deposit of over a million
- 18 dollars returned?
- 19 A. No.
- 20 Q. It was not?
- 21 A. It was not.
- 22 Q. It was forfeited under the agreement?
- 23 A. On June 28th it was disputed.
- 24 Q. What was the cloud on title that
- 25 Crescent Heights objected to as to Ogden's

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- 1 Q. Did you discuss the cloud on title of
- 2 Lot 7 with representatives of Ogden Realty?
- 3 A. Yes.
- 4 Q. Did the representatives of Ogden
- 5 Realty that you discussed the cloud on title of
- 6 Lot 7, did those Ogden Realty representatives
- 7 believe they held title to a portion of Lot 7?
- 8 A. Absolutely.
- 9 Q. What documents did they provide to in
- 10 support of their opinion that Ogden Realty had a
- 11 clear title to Lot 7?
- 12 A. These are things that I don't
- 13 personally review, but my attorneys think there
- 14 was title runs on the property that show that
- 15 that was owned by Ogden.
- 16 Q. Who were your attorneys at the time?
- 17 A. My attorneys were Norris McLaughlin.
- 18 Q. Who specifically?
- 19 A. Kevin O'Brien.
- 20 Q. So as of June 28, 2013, the contract
- 21 to purchase the Ogden Tracts were terminated?
- 22 A. Correct.
- 23 Q. Ultimately, the Ogden Tracts get
- 24 conveyed to a new entity called Jersey
- 25 Development Company, LLC?

<p>Dans - Direct</p> <p>Page 77</p> <p>1 A. Correct.</p> <p>2 Q. That closing takes place on July 3,</p> <p>3 2013?</p> <p>4 A. Correct.</p> <p>5 Q. Could you describe what happened</p> <p>6 between June 28, 2013 and July 3, 2013 between</p> <p>7 the termination of the contract for the sale of</p> <p>8 the Ogden Tracts to Crescent Heights as assigned</p> <p>9 and the purchase of the Ogden Tracts by Coles</p> <p>10 Jersey Company on June 3rd -- strike that --</p> <p>11 July 3rd?</p> <p>12 MR. DALTON: Off the record.</p> <p>13 (Discussion off record.)</p> <p>14 A. After we found out -- I'll step back a</p> <p>15 little bit to the beginning of the day on June --</p> <p>16 we'll call it June 28th.</p> <p>17 We went into the city to Crescent</p> <p>18 Heights' office and had a chat from Bruce Menin,</p> <p>19 and Bruce was one of the principals of Crescent</p> <p>20 Heights. We were expecting that the closing</p> <p>21 could still occur.</p> <p>22 And in the morning Bruce told us there</p> <p>23 were a number of issues that he wasn't happy with</p> <p>24 regarding some of our performance, including the</p> <p>25 settlement, and that at that moment he wasn't</p>	<p>Dans - Direct</p> <p>Page 79</p> <p>1 And we were upset and heartbroken as</p> <p>2 we left and we tried to convince him that this --</p> <p>3 that the title issue was not an issue and it was</p> <p>4 just a surveying issue, but that did little to</p> <p>5 hold it off.</p> <p>6 We called Ogden and told them and they</p> <p>7 informed us that the deal was over and we still</p> <p>8 had hope that possibly we could convince Crescent</p> <p>9 Heights in a day or two that there was no title</p> <p>10 problem and we could close on the property and</p> <p>11 they said that the contract was terminated and</p> <p>12 the only way we could close on the property was</p> <p>13 if we came up with the cash quickly, if Crescent</p> <p>14 Heights came up with it on Monday or Tuesday that</p> <p>15 they could close, but they weren't going to share</p> <p>16 the allocations of the Spectra/Texas Eastern</p> <p>17 money with us.</p> <p>18 On George's drive home Bill Ackman</p> <p>19 called him up and said that he had just spoken to</p> <p>20 Bruce Menin. Bruce had never reached him even</p> <p>21 though he had placed a call earlier in the day,</p> <p>22 it was well after about four or five o'clock,</p> <p>23 let's say, on a Friday afternoon that Bill</p> <p>24 finally called Bruce Menin back and they chatted</p> <p>25 and had a nice talk, and Bill said that he was</p>
<p>Dans - Direct</p> <p>Page 78</p> <p>1 prepared to close on the property, but he was</p> <p>2 going to be speaking with his partners.</p> <p>3 He asked us at that time about a</p> <p>4 number of the issues that he wasn't happy about</p> <p>5 and we explained them all to him and he brought</p> <p>6 up Mr. Ackman's name, who he had gone to school</p> <p>7 with, and who he had already talked to about us</p> <p>8 before he entered into the agreement on the Van</p> <p>9 Leer site, the 110 Hoboken Avenue property.</p> <p>10 They had gone to graduate school at</p> <p>11 Harvard together.</p> <p>12 And he said he was going to give</p> <p>13 Mr. Ackman a call and get a little more insight</p> <p>14 into us.</p> <p>15 He then said, "Guys, I'm going to be</p> <p>16 speaking to my partners in a couple hours and</p> <p>17 I'll give you a call then."</p> <p>18 And we said, "We'll wait downstairs.</p> <p>19 Give us a call. When you're ready we'll come up</p> <p>20 and talk to you."</p> <p>21 And by the time he called us up it was</p> <p>22 late in the afternoon and he said "Look, we're</p> <p>23 not going to close" and, you know, "We think that</p> <p>24 we have a position that the seller wasn't</p> <p>25 offering us a clear title."</p>	<p>Dans - Direct</p> <p>Page 80</p> <p>1 going to see Bruce over the weekend and ask if we</p> <p>2 would write a little memo to him to go over the</p> <p>3 points that were bothering Bruce about our</p> <p>4 performance, and we wrote that memo.</p> <p>5 I believe Bruce and Bill met on a</p> <p>6 Saturday. They had a barbecue together, I think</p> <p>7 at Bill's house in the Hamptons, and a phone call</p> <p>8 was put together on Sunday between -- which I was</p> <p>9 not on -- with Mr. Malone, with Bruce Menin and</p> <p>10 with Sonny -- Sonny Kahn was Bruce Menin's</p> <p>11 partner in Crescent Heights, he was in Florida --</p> <p>12 and in that conversation George said the only way</p> <p>13 we're going to close this right now is to forfeit</p> <p>14 the 1.8 -- close to \$1.8 million.</p> <p>15 And Crescent Heights said that that's</p> <p>16 not going to happen and they're going to fight it</p> <p>17 out with these guys. "They owe us our money</p> <p>18 back."</p> <p>19 And so we saw a battle brewing, and</p> <p>20 that was on -- so that was sometime Sunday</p> <p>21 morning. Bill had asked George to give him a</p> <p>22 call back after the conference call and George</p> <p>23 did that and told Bill what had gone -- what had</p> <p>24 happened and that Crescent Heights was out and</p> <p>25 that they were going to commence litigation and</p>

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1 this was all going to get tied up for a long
2 time, you know.
3 And we asked Bill if we could come in
4 and review the project with him. Bill had -- we
5 first made Bill aware of the project, I believe,
6 in 2007 when we first signed the contract, and
7 again in 2010, where we came very close to making
8 a deal with Bill and Ogden, and that fell apart
9 too at the last moment.
10 So Bill said -- told us yes, I think
11 he told us he was staying at his house and said
12 "Come into the city on Monday and I'll meet you
13 guys after I get home, come to my house."
14 And Bill's father, Larry, told us to
15 come into the city, have dinner with him on
16 Monday, and then we'd go over to Bill's after
17 that and go over the project.
18 We brought in the information we had
19 to Bill and sat in his home and went over it and
20 told him all the benefits of getting involved in
21 a piece of property like this.
22 And he -- and we were there with his
23 father and also his manager of his personal LLC.
24 This was going to be done, if we did
25 it, through his personal company, not through the

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1 Then a number of minutes go by, one,
2 two, three, four, five, and I'm sitting on the
3 phone hanging, you know, my stomach churning and
4 he gets back on the phone and says "That was my
5 father."
6 And Larry had been always against that
7 portion of Jersey City. And he came on and said
8 "Look, I think it's a good deal and I think we
9 should do it."
10 And so Bill told me all that and I
11 said "Great." He said, "Look, I'm not saying I'm
12 going to do it yet, but I'm going to make a few
13 phone calls. I'm going to call Doug Yearly from
14 Toll Brothers..." who he had dealt with at
15 Maxwell House site "...and a few other people and
16 I'll get back to you."
17 We talked back and forth. I talked
18 with Larry. Doug Yearly gave us a good
19 recommendation on the site and George finally
20 landed and got on the phone, chatted, I told him
21 to give Bill a call. He gave Bill a call, and at
22 that time by then Bill had been convinced and
23 said "Let's make a closing" and we jumped through
24 hoops and we got to the closing.
25 No contract, Ogden wanted no contract.

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1 hedge fund that he's involved in.
2 And he said "Look, guys, I'll think
3 about it." You know, "I'll give you a call in
4 the morning."
5 Mr. Vallone was traveling for a week's
6 vacation and he flew off and Bill called me at
7 8:30 in the morning and told me that he really
8 didn't feel that comfortable about the project,
9 about buying another piece of land and getting
10 involved in something like this at this point.
11 And I started my very best convincing
12 to try to tell him this is the best of the best,
13 and my promotor salesman is up in the air flying,
14 George Vallone.
15 And Bill, being a good friend and a
16 good partner and having been a good partner,
17 allowed me to go on. And the more I chatted, and
18 we were on phone five or ten minutes and he kept
19 politely saying back to me "I'm just not feeling
20 real estate right now" and "I don't know if it's
21 right", "I think I'm really going to take a pass
22 on this."
23 And then all of a sudden he says
24 "Look, I got another call coming through, just
25 hold on a second."

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1 We would have been happy to have one, create one,
2 but they say no contract; either you come and
3 show up with the cash and we'll do it, but we do
4 not want the contract. The contract is dead."
5 So I was given the authority to be the
6 signer for Bill Ackman at the closing.
7 I think that's it.
8 Q. I have a few follow-ups to your answer
9 as you can imagine.
10 When you were referring to "we" that
11 is you and Vallone?
12 A. Yes.
13 Q. Ogden indicated to you that a deal
14 going forward there would be no allocation of the
15 condemnation settlement of three-and-a-half
16 million between Ogden and whoever the future
17 buyer would be?
18 A. Yes.
19 Q. Who communicated that on behalf of
20 Ogden?
21 A. Paul Hennessy.
22 Q. Is there writing to that effect or a
23 letter or an e-mail?
24 A. I don't recall.
25 Q. You accepted those terms as a buyer

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1 going forward, that there would be no allocation
2 of the three-and-a-half million dollar
3 settlement?
4 MR. DALTON: Objection. I don't think
5 that -- just a clarification.
6 MR. ASH: That's fine. I'll come back
7 to that.
8 Q. You wrote a memo to Bill Ackman as to
9 the terms of the deal with Ogden and the
10 potential development of the site?
11 A. Yes.
12 Q. Do you have a copy of that memo in
13 your file?
14 A. A copy of a memo that laid out the
15 development to Mr. Ackman?
16 Q. Yes.
17 A. I believe so, yes.
18 Q. I haven't seen a copy of that memo and
19 it wasn't in the files, I reviewed so to the
20 extent you maintained a copy of that memo, I
21 would like a copy.
22 Did that memo identify the Texas
23 Eastern pipeline or the easements?
24 A. No.
25 Q. Did it identify as an issue an

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1 I'd have to go back to the question.
2 Maybe I misunderstood it.
3 Q. In your answer, your previous answer,
4 you indicated that there was a \$1.8 million
5 amount.
6 Do you recall talking about
7 \$1.8 million?
8 A. That was the amount of -- that would
9 come off -- would have come off the purchase
10 price if we had closed on the original contract.
11 Q. So if you closed on the original
12 contract of 22 million there would have been a
13 reduction of the purchase price by \$1,792,393.94?
14 A. That was our understanding, yes.
15 Q. Was that memorialized in writing, that
16 allocated the settlement amount between Ogden
17 Realty and Crescent Heights?
18 A. I don't recall exactly how that was
19 memorialized. It was memorialized in documents
20 of this nature as you put in front of me,
21 certainly memorialized like that.
22 I don't know if there were any other
23 documents.
24 Q. Bill Ackman's personal LLC, is that
25 Table LLC?

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1 allocation of settlement proceeds of
2 three-and-a-half million dollars with the seller
3 Ogden?
4 A. No.
5 Q. The deposit of the purchase and sale
6 agreement between Ogden and Hoboken Brownstone
7 was \$1.8 million?
8 A. The deposit on the initial contract?
9 Q. Yes, the March 2013 contract.
10 A. To the best of my recollection.
11 I don't remember the exact amount.
12 Q. I'm only asking as a clarification
13 because I think earlier today your testimony was
14 the deposit was north of one million and then in
15 your previous answer you indicated it was
16 \$1,800,000.
17 Is that the amount, to the best of
18 your recollection?
19 A. No, I'm sorry, you misunderstood.
20 When I said the 1.8 I was referring, I think,
21 before to the amount of the settlement, 1.8.
22 I don't remember -- you'd have to go
23 back to that question, but when I mentioned that
24 I think I was referring to that 1.81792, not the
25 deposit.

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1 A. Yes, Table Management.
2 MR. ASH: Let's go off the record.
3 (Discussion off record.)
4 (Luncheon Recess Taken.)
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1 AFTERNOON SESSION
2
3 CONTINUED DIRECT EXAMINATION BY MR. ASH:
4
5 Q. Now, as of June 28, 2013 Crescent
6 Heights, who was the buyer of the Ogden Tracts
7 under assignment of the purchase and sale
8 agreement of Hoboken Brownstone, terminates the
9 agreement, correct?
10 A. Correct.
11 Q. So why are you now concerned with
12 finding a buyer for the Ogden Tracts?
13 A. I would like to own the property.
14 Q. You weren't going to own the property
15 if Crescent Heights bought it, right?
16 A. I believed that an agreement -- if
17 Crescent Heights had closed on the property that
18 they would have -- at some point in the future --
19 had us -- brought us into the partnership that
20 owned the property.
21 Q. Was that potential arrangement
22 discussed with Crescent Heights at some point?
23 A. Yes.
24 Q. You deposit money under the purchase
25 and sale agreement of a little bit more than a

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1 Q. So it was an all-cash purchase and the
2 amount was \$22 million?
3 A. Yes.
4 Q. The purchase was not subject to
5 approvals for development?
6 A. No.
7 Q. The purchase was not based on a
8 density of development that could be achieved on
9 the property?
10 A. No.
11 Q. Had you presented a density of
12 development that could be achieved on the
13 property to Mr. Ackman prior to purchase by Coles
14 Jersey?
15 A. Yes.
16 Q. What was to be the allocation of the
17 settlement between Texas Eastern and Ogden with
18 Ogden and Coles Jersey?
19 A. There was nothing mentioned about it.
20 Q. There was nothing mentioned between
21 Ogden and Coles Jersey?
22 A. That's correct.
23 Q. Had you mentioned it to Ackman?
24 A. No, I don't believe I mentioned it to
25 Ackman, the purchase of the property.

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1 million dollars, was that Crescent Heights' money
2 on deposit or was that Hoboken Brownstone's money
3 on deposit?
4 A. Crescent Heights, other than I think
5 \$10,000.
6 Q. So what steps were taken between
7 June 28, 2013 and July 2013 for Coles Jersey
8 Development Company, LLC to purchase the Ogden
9 Tracts?
10 A. Again, a long explanation of how we
11 ended up there.
12 Once Bill agreed on that -- I believe
13 it was a Tuesday afternoon -- that he would close
14 on the property, his law firm, Sullivan Cromwell,
15 and Tony Colletta, and our attorney, Kevin
16 O'Brien -- Kevin shared the documents, shared
17 everything with Tony Colletta and Kevin acted on
18 behalf of Coles Jersey Development to purchase
19 the property.
20 Q. What were the terms that were
21 negotiated in lieu of a purchase and sale
22 agreement for Coles Jersey to buy the Ogden
23 Tracts from Ogden?
24 A. It was an all-cash purchase. There
25 were no terms.

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1 Q. The settlement of three-and-a-half
2 million dollars for the permanent and temporary
3 easements on Lot 13 and additional permanent
4 easement on Lot 7 was never discussed between you
5 and Ackman prior to purchase?
6 A. I don't recall if it was ever
7 mentioned during the -- well, Crescent Heights
8 still had the opportunity to purchase the
9 property if that had become an issue.
10 Crescent Heights had an issue, as I
11 mentioned, with some of our actions.
12 Q. One of the actions that Crescent
13 Heights had an issue with was the way you dealt
14 with the settlement?
15 A. Yes.
16 Q. Specifically what was their issue with
17 how you addressed the settlement?
18 A. They felt they hadn't been notified
19 enough about it. We felt very strongly
20 differently. We had many e-mails that said that
21 and we defended our actions.
22 And Bill -- before he even thought
23 about purchasing the property, he was friends
24 with, as I mentioned, Bruce Menin and tried to
25 tell Bruce, "Look, Danny and George are good

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1 guys. They're not doing anything to be devious
2 or do anything wrong."
3 And I don't know if there were any --
4 I don't recall if any amounts were talked about
5 or anything, but there was a memo we had prepared
6 about our actions, the ones that Bruce felt it
7 didn't give him full confidence in us.
8 Q. That was the memo you prepared for
9 Ackman's benefit?
10 A. We prepared that for Ackman's benefit,
11 for the benefit of -- so that Ackman could, at
12 that moment, still hopefully convince Bruce to
13 close.
14 Q. One of the issues addressed in the
15 memo to Ackman was the treatment of the Texas
16 Eastern settlement agreement?
17 A. Yes, I can't remember the exact -- how
18 that was all put together in the memo, but that
19 was involved in that discussion, yes.
20 Q. In addition to the memo prepared for
21 Ackman's benefit, that would have specifically
22 addressed the three-and-a-half million dollar
23 settlement with Texas Eastern and Ogden.
24 Did you also discuss that settlement?
25 MR. DALTON: Objection to form, but

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1 with Crescent Heights and a number of items that
2 Crescent Heights was unhappy about.
3 Q. So at any point do you know if Ackman
4 was aware that the purchase price that Crescent
5 Heights would pay for the same property
6 ultimately purchased by Coles Jersey was a little
7 over \$20 million, \$20,200,000 to Crescent
8 Heights, but \$22 million to Coles Jersey?
9 A. I don't think he was aware of that.
10 Q. You never explained that difference?
11 A. I don't recall what was in that memo
12 because it was exactly what we had explained in a
13 the memo. I think we had delivered that memo,
14 but that was really the extent of trying to
15 explain that.
16 Q. On July 3, 2013 Coles Jersey purchased
17 the Ogden Tracts, right?
18 A. Correct.
19 Q. You attended that closing?
20 A. Yes.
21 Q. Where was the closing?
22 A. At Ogden's law firm. I don't remember
23 the attorney's name, but it was at their
24 attorney's office.
25 Q. Do you remember where that office was

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1 you can answer.
2 A. No.
3 Q. There was no discussion?
4 A. There was no discussion.
5 Q. Did Ackman have questions for you
6 based on the memo?
7 A. No, it was all very quick. Bill
8 wasn't focused on it other than trying to have a
9 nice barbecue with his friend, Bruce, and say
10 "These guys are nice guys."
11 Q. Do you know if Ackman was aware that
12 the purchase price to Crescent Heights for the
13 Ogden Tracts of \$22 million was then offset by
14 approximately \$1.8 million for the allocation of
15 the Texas Eastern settlement?
16 MR. DALTON: I have an objection to
17 form, but you can answer.
18 A. As I mentioned, there was a memo
19 prepared for Bill prior to his meeting with Bruce
20 Menin for a barbecue and that was all that Bill
21 could have been -- that Bill could have been
22 aware of.
23 He certainly didn't know about the
24 contract or anything of that nature. It was just
25 that one memo to him regarding the relationship

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1 located?
2 A. I don't know. I can't remember,
3 actually.
4 Q. Was the office in Jersey City?
5 A. No.
6 Q. Was it in Hoboken?
7 A. No.
8 Q. Did you drive there?
9 A. Yes.
10 Q. Drove yourself?
11 A. Yes.
12 Q. Did anyone come with you?
13 A. No.
14 Q. Did anyone else attend the closing on
15 behalf of the buyer?
16 A. Other than my attorney?
17 Q. Including your attorney.
18 A. Well, my attorney was there, the
19 attorney for --
20 Q. Who was that attorney?
21 A. Kevin O'Brien.
22 Q. Did he meet you at the closing?
23 A. Yes.
24 Q. Mr. Vallone didn't attend the closing?
25 A. No.

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1 Q. Who attended the closing on behalf of
2 the seller?
3 A. Paul Hensen.
4 Q. Anyone else?
5 A. No.
6 Q. Did they have an attorney -- did the
7 seller have an attorney at the closing?
8 A. Yes.
9 Q. Who was that?
10 A. I don't remember the name.
11 Q. Was the closing in the morning or in
12 the afternoon?
13 A. Afternoon.
14 Q. Was there pressure to get the closing
15 done before the holiday weekend?
16 A. Yes, pressure by Ogden to get the
17 closing done.
18 Q. Did you receive a draft of closing
19 documents before the closing?
20 A. Some documents. I don't know if I had
21 all -- every document.
22 Q. Do you recall reviewing the documents,
23 the draft closing documents, prior to attending
24 the closing?
25 A. Yes.

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1 (Closing Report is received and marked
2 as Exhibit DG-4 for Identification.)
3 Q. You could just flip through what we
4 marked DG-4.
5 A. I would like to flip it.
6 (Witness reviewing exhibit.)
7 Q. You've seen these documents before,
8 right?
9 A. Yes.
10 Q. These were produced through my review
11 of your files on CD that was marked DG 00358 to
12 the best of your recollection or if you know?
13 A. Yes.
14 Q. Have you reviewed these documents
15 since the closing?
16 A. No.
17 Q. If you look at the first two pages
18 there's an index of documents.
19 Do you know if there are any closing
20 documents that would have been prepared for the
21 closing or signed at the closing or in relation
22 to the closing that are not listed in the index
23 of documents?
24 A. I do not.
25 Q. You're not aware?

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1 A. I'm not aware of anything that's not
2 included here.
3 Q. You signed all closing documents on
4 behalf of the buyer Coles Jersey Development
5 Company, LLC?
6 A. Yes, I did.
7 Q. Those documents included the
8 settlement statement?
9 A. Yes.
10 Q. The buyers Affidavit of Consideration?
11 A. Yes.
12 Q. The assignment of licenses, permits,
13 contracts and other intangible property?
14 A. Yes.
15 Q. The bulk sale escrow agreement?
16 A. Yes.
17 Q. The release of condemnation proceeds?
18 A. The release of condemnation proceeds?
19 This says "Condemnation Settlement."
20 Q. Strike that.
21 You signed the release as the
22 condemnation settlement amount?
23 A. Yes.
24 Q. And you signed the assignment and
25 limited liability company agreement for Coles

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1 Jersey?
2 A. Yes, I believe I did. I was wearing a
3 few hats that day.
4 Q. What hats were you wearing that day?
5 A. As to the lease's condemnation
6 settlement I was wearing -- it says "Hoboken
7 Brownstone," in many of the documents I signed on
8 behalf of Coles Jersey.
9 Q. Were you a member of Coles Jersey
10 Development, LLC at the closing?
11 A. No.
12 Q. You formed the limited liability
13 company called Coles Jersey Development, LLC with
14 Mr. Vallone, right?
15 A. We formed it? It was formed by an
16 attorney.
17 Q. You and Mr. Vallone were not the
18 original members of the entity Coles Jersey
19 Development Company, LLC?
20 A. No. It was a new company.
21 Q. Please turn to one of the last
22 documents in DG-4, the assignment and limited
23 liability company agreement, Coles Jersey
24 Development Company, LLC.
25 Are you there?

<p>Dans - Direct Page 101</p> <p>1 A. Okay.</p> <p>2 Q. If you go to Paragraph 6, would you</p> <p>3 read that, please?</p> <p>4 (Witness reviewing exhibit.)</p> <p>5 A. "Sole member Table Jersey, LLC shall</p> <p>6 be a sole member of the company. Each of George</p> <p>7 Vallone and Daniel Gans hereby represent and</p> <p>8 warrant and cause the formation of the company</p> <p>9 and that no other person or entity has any</p> <p>10 ownership or beneficial interest of any kind,</p> <p>11 economic or otherwise, in the company. Each of</p> <p>12 George Vallone and Daniel Gans hereby assigns all</p> <p>13 of their right, title, and interest in their</p> <p>14 company to the member."</p> <p>15 Q. So the company was formed on July 1,</p> <p>16 2013?</p> <p>17 A. Yes.</p> <p>18 Q. And when it was formed you and</p> <p>19 Mr. Vallone were members of that entity, right?</p> <p>20 MR. DALTON: Objection to form.</p> <p>21 Objection to form.</p> <p>22 Where do we have that?</p> <p>23 MR. ASH: I'm asking him the question.</p> <p>24 MR. DALTON: Answer if you know.</p> <p>25 A. When we formed -- when this was --</p>	<p>Dans - Direct Page 103</p> <p>1 A. That's correct.</p> <p>2 Q. And it is with that authority that you</p> <p>3 signed all of the documents on behalf of the</p> <p>4 buyer, Coles Jersey Development Company, LLC, at</p> <p>5 a closing on July 3, 2013, correct?</p> <p>6 A. That's correct.</p> <p>7 Q. Did you review the closing documents</p> <p>8 with Ackman or any other representative of Coles</p> <p>9 Jersey Development, LLC?</p> <p>10 A. No.</p> <p>11 Q. As of July 3, 2013, were there any</p> <p>12 other members of Coles Jersey Development</p> <p>13 Company, LLC other than Table Jersey, LLC of</p> <p>14 which the sole member was William Ackman?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. Do you know if Ackman approved the</p> <p>17 closing documents before you signed them at</p> <p>18 closing?</p> <p>19 A. I don't believe that he read the</p> <p>20 documents prior to closing.</p> <p>21 Q. Did Ackman's entity, Table Jersey,</p> <p>22 LLC, have separate counsel?</p> <p>23 A. Yes.</p> <p>24 MR. DALTON: I'm sorry, separate from</p> <p>25 whom?</p>
<p>Dans - Direct Page 102</p> <p>1 THE WITNESS: Please read the</p> <p>2 question, again.</p> <p>3 (Question read back as follows:</p> <p>4 "QUESTION: And when it was formed you</p> <p>5 and Mr. Vallone were members of that</p> <p>6 entity, right?")</p> <p>7 A. From what I read now, it seems that</p> <p>8 that's correct. I didn't recall that.</p> <p>9 Q. What are you reading specifically that</p> <p>10 refreshes your recollection?</p> <p>11 A. What you asked me to read out loud</p> <p>12 just now to the court stenographer.</p> <p>13 Q. Paragraph 6 of the assignment and</p> <p>14 limited liability company agreement of Coles</p> <p>15 Jersey?</p> <p>16 A. Correct.</p> <p>17 Q. On July 2nd, in that agreement, you</p> <p>18 then assign your membership status to Table</p> <p>19 Jersey, LLC?</p> <p>20 A. Correct.</p> <p>21 Q. And in Paragraph 11 of the same</p> <p>22 agreement you are designated as an authorized</p> <p>23 person and an authorized signatory of Coles</p> <p>24 Jersey Development Company, LLC.</p> <p>25 Is that right?</p>	<p>Dans - Direct Page 104</p> <p>1 MR. ASH: Separate from Mr. O'Brien.</p> <p>2 A. Yes, they did.</p> <p>3 Q. That was a gentleman at Sullivan</p> <p>4 Cromwell?</p> <p>5 A. Yes.</p> <p>6 Q. What was his name?</p> <p>7 A. Tony Colletta.</p> <p>8 Q. Did Mr. Colletta review the closing</p> <p>9 documents on behalf of Table JERSEY, LLC prior to</p> <p>10 closing?</p> <p>11 MR. DALTON: Objection to form.</p> <p>12 Q. You can answer.</p> <p>13 A. I believe he or someone in his firm</p> <p>14 reviewed the documents.</p> <p>15 Q. Were the documents reviewed by</p> <p>16 Mr. Colletta or someone in his firm, did he</p> <p>17 review all of the documents you signed at</p> <p>18 closing?</p> <p>19 MR. DALTON: Objection to form.</p> <p>20 You can answer it.</p> <p>21 A. I do not know.</p> <p>22 Q. On Page 1 of the document, DG-4, under</p> <p>23 the heading "Closing Report", the second</p> <p>24 paragraph indicates that there was no purchase</p> <p>25 and sale agreement.</p>

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1 "However, a purchase and sale
2 agreement dated April 12, 2013 had previously
3 been entered into between Ogden and Hoboken
4 Brownstone Company (an affiliate of Coles
5 Jersey). Then Hoboken Brownstone Company
6 assigned such agreement to an unaffiliated entity
7 and the agreement was thereafter terminated by
8 Ogden as a result of an alleged breach by such
9 entity of its obligation to close title by the
10 date required."
11 Is the unaffiliated entity described
12 in that second paragraph on DG-4, is that
13 Crescent Heights?
14 A. Yeah, the CH II you named the entity
15 that Crescent Heights was using, yes.
16 Q. CH II Acquisitions?
17 A. Correct.
18 Q. Hoboken Brownstone Company is
19 described here as an affiliate of Coles Jersey.
20 Do you see that?
21 A. Yes.
22 Q. What does that mean?
23 A. I don't know.
24 Q. As of July 3, 2013 was Hoboken
25 Brownstone Company affiliated with Coles Jersey?

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1 A. Yes.
2 Q. And "This assignment specifically
3 excludes any interest in the condemnation action
4 which is referred to as Civil Action No. 1234-12
5 in the city of Jersey, Hudson County or any
6 proceeds therefrom."
7 Do you see that?
8 A. Yes.
9 Q. So this purchase by Coles Jersey
10 Development was made with a specific release of
11 any proceeds of that settlement, correct?
12 A. That's what it says.
13 Q. And at the time you signed this, that
14 settlement of three-and-a-half million dollars
15 included all compensation for the permanent and
16 temporary easements on Lot 13 and the permanent
17 easement on Lot 7, correct?
18 A. I don't know. I'm not sure what this
19 action really was.
20 Q. You're not sure what that refers to?
21 A. I'm not 100 percent sure of what this
22 -- that action refers to, but whatever it refers
23 to...
24 Q. "Whatever it refers to."
25 Is that your entire answer?

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1 A. No.
2 Q. As of the closing date, what was the
3 arrangement between Ogden Realty and Coles Jersey
4 Development Company, LLC with regard to the Texas
5 Eastern condemnation settlement?
6 THE WITNESS: Could you read the
7 question again, please?
8 (Question read back.)
9 A. There was none.
10 Q. There was no arrangement?
11 A. There was no arrangement.
12 Q. Let's turn to the assignment of
13 licenses, permits and contracts or other changes.
14 MR. WEGENER: Where is that, toward
15 the end?
16 THE WITNESS: It's right in the middle
17 of it.
18 MR. WEGENER: The assignment of
19 limited liability company and agreement.
20 Is that what you're talking about?
21 MR. ASH: No. Assignment of licenses
22 permits, and contracts and other intangible
23 property.
24 Q. And you signed this document on behalf
25 of Coles Jersey Development Company, LLC?

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1 A. At the time I signed it I didn't know
2 what -- I didn't do any research on Civil Action
3 No. 1234-12, what exactly that meant.
4 I did not -- I don't know if that
5 included what part of what settlements or what
6 exactly that action was.
7 Q. Did you ask anyone?
8 A. No.
9 Q. Do you know who prepared this
10 document?
11 A. I can only assume that it was prepared
12 by Ogden's attorneys.
13 Q. Do you know if this was part of the
14 draft closing documents that you reviewed prior
15 to the closing?
16 A. It may have been, but I did not
17 specifically review each document that may have
18 been there, but I don't recall reviewing it, but
19 there were a lot of documents, obviously.
20 Q. Were you copied on any transmittals
21 between Ogden's attorney and Coles Jersey
22 Development Company's attorney that would have
23 attached draft closing documents?
24 A. I very well might have been.
25 Q. Do you specifically recall seeing any

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1 transmittal?
 2 A. I do not specifically recall that.
 3 Q. Do you recall if there were any
 4 revisions made to proposed closing documents by
 5 attorneys for Coles Jersey prior to the closing?
 6 A. I don't recall.
 7 Q. I didn't see any correspondence with
 8 draft closing documents in your files, but to the
 9 extent you have maintained those records, I ask
 10 for the document.
 11 MR. ASH: Let's mark this DG-5.
 12 (Release is received and marked as
 13 Exhibit DG-5 for Identification.)
 14 (Witness reviewing exhibit.)
 15 Q. Have you read DG-5?
 16 A. Yes.
 17 Q. Have you seen this before?
 18 A. Yes.
 19 Q. What is this document?
 20 A. A release.
 21 Q. What does it release?
 22 A. It releases any and all such claims
 23 and rights with respect to such condemnation
 24 award for the Texas Eastern Transmission lot.
 25 Q. You signed this at closing?

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1 Q. And you signed this document at
 2 closing as a representative of the buyer, Coles
 3 Jersey Development Company, LLC, correct?
 4 MR. DALTON: Objection.
 5 A. No. I signed it as the Hoboken
 6 Brownstone Company because they were the ones who
 7 had a previous contract that was null and void
 8 and I signed as Hoboken Brownstone Company.
 9 Q. Who prepared this document?
 10 A. I believe this was prepared by Ogden's
 11 attorneys.
 12 Q. And this document was signed as part
 13 of the closing documents on July 3, 2013,
 14 correct?
 15 A. Yes.
 16 Q. Was there some discussion about you
 17 signing this release at the closing?
 18 A. No.
 19 Q. Did you ask any questions about this
 20 document before signed it at the closing?
 21 A. No.
 22 Q. Did you review the document before you
 23 signed it at closing?
 24 A. Yes.
 25 Q. Had you seen a draft of this document

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1 A. Yes, I did.
 2 Q. Do you see at the bottom of the first
 3 paragraph a reference to Texas Eastern
 4 Transmission, LP versus 1.73 Acres of Land More
 5 or Less, Docket No. 1234-12?
 6 A. Yes.
 7 Q. Does that refresh your recollection as
 8 to the docket in the previous document we
 9 reviewed?
 10 A. Yes. I don't know. I'm just asking
 11 you right now if it's the same numbers without
 12 looking and checking and all of that, but it
 13 refreshes my memory.
 14 Q. And this release includes, but is not
 15 limited to Block 6005, Lots 7 and 13.
 16 Do you see that?
 17 A. Yes.
 18 Q. And when you signed this document, was
 19 it your understanding that this was a release of
 20 the three-and-a-half million dollar settlement
 21 Texas Eastern paid to Ogden Realty for the
 22 easements acquired, temporary and permanent, on
 23 Lot 13 as well as the additional permanent
 24 easement on a portion of Lot 7?
 25 A. Yes.

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1 prior to closing?
 2 A. I don't recall. It was very quick
 3 when I read something; it may have been the day
 4 before, it may have been that day.
 5 Q. Are you aware if anyone else would
 6 have reviewed this document as a draft prior to
 7 closing?
 8 A. Only my attorney.
 9 Q. Did you sign any other documents at
 10 the closing on behalf of the Hoboken Brownstone
 11 Company?
 12 A. I don't recall.
 13 Q. Did you indicate at closing that you
 14 were not signing this document on behalf of the
 15 purchaser, Coles Jersey Development Company, LLC?
 16 A. No.
 17 Q. Do you believe the intention of this
 18 release is to bind the purchaser of the property,
 19 Coles Jersey Development Company, LLC?
 20 A. I can't -- I don't want to speculate
 21 on what the intention was of the document.
 22 Q. But you signed it, right?
 23 A. Yes.
 24 Q. And what was your intention in signing
 25 the document?

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<p>Dans - Direct Page 113</p> <p>1 A. It was the release of the settlement 2 proceeds that we had negotiated under the prior 3 contract. 4 Q. Under what prior contract? 5 A. The contract to purchase the property 6 that we assigned to Crescent Heights. 7 Q. So you believe this release has no 8 effect, no binding effect, on Coles Jersey 9 Development Company, LLC? 10 A. It's signed by Hoboken Brownstone 11 Company. 12 Q. Did you sign this document, this 13 release at closing, with the intention to release 14 any right to compensation on behalf of Coles 15 Jersey Development Company, LLC? 16 A. I didn't give it much thought at that 17 moment. I believe that this was meant for the 18 Hoboken Brownstone Company to the prior contract 19 and that that released any obligation that Ogden 20 had to share anything of the proceeds of the 21 condemnation, and that was it. 22 Q. Do you believe it was the intention of 23 the assignment of licenses, permits, contracts 24 and other intangible property for Coles Jersey 25 Development Company, LLC to release any claim for</p>	<p>Dans - Direct Page 115</p> <p>1 to make. That's why we're in this lawsuit. 2 A. I'm not sure what Coles Jersey was 3 aware of at that moment. 4 Q. On July 18, 2013 you formed another 5 entity called Coles Street Park Development 6 Company, LLC, correct? 7 A. Correct. 8 Q. Who were the members of that entity? 9 A. Mr. Vallone and myself. 10 Q. What was the purpose of forming that 11 entity? 12 A. To have an entity to become part of 13 Coles Jersey Development Co., LLC. 14 Q. Coles Street Park Development Company, 15 LLC ultimately did become a member of Coles 16 Jersey Development Co., LLC, correct? 17 A. Correct. 18 Q. When did that take place? 19 A. I think I answered and said maybe 20 early September, sometime in August of 2013. 21 Q. So since that time you are now a 22 member of an entity that is a member of the owner 23 of the property? 24 A. Yes. 25 Q. What percentage ownership interest in</p>
<p>Dans - Direct Page 114</p> <p>1 compensation for the easements acquired by Texas 2 Eastern? 3 MR. DALTON: Objection to form, but 4 you can answer. 5 A. Again, I don't think I gave it any 6 thought at that moment; really what the specifics 7 of it was, of those releases, because in lots of 8 documents what the documents say is what they 9 say. 10 Q. Did Coles Jersey Development Company, 11 LLC purchase the Ogden Tracts on July 3, 2013 12 subject to permanent easements for the benefit of 13 Texas Eastern on Lot 13 and Lot 7? 14 MR. DALTON: Objection to form. 15 A. I'm not sure what Coles Jersey was 16 fully aware of at that point. I was only a 17 signor of documents. I can't speak for them. 18 Q. When that conveyance took place from 19 Ogden to Coles Jersey and you were there, as the 20 express agent of the buyer was that conveyance 21 made subject to permanent easements benefitting 22 Texas Eastern on Block 6005, Lot 13 and a portion 23 of Lot 7? 24 MR. DALTON: Objection to form, asked 25 and answered. Calls for a legal conclusion</p>	<p>Dans - Direct Page 116</p> <p>1 the property do you have? 2 A. Mr. Vallone and I have 20 percent. 3 Q. Each or together? 4 A. No, together. 5 Q. And are you and Mr. Vallone even 6 partners in the 20 percent interest? 7 A. Yes. 8 Q. Who is Robert Van Haken? 9 A. I believe he's the title -- I'm going 10 by memory, but I believe he was the title agent. 11 Q. Title agent. 12 Do you recall any conversations you 13 had with Mr. Van Haken? 14 MR. DALTON: Can you put a timeframe 15 on it or just ever? 16 Q. Since July of 2014? 17 A. No. 18 Q. Do you know who William Piccolli is? 19 A. The name is familiar, but you have to 20 remind me. 21 Q. How about John Farrell. 22 Do you know who John Farrell is? 23 A. Again, you have to remind me. 24 Van Hanken I just met. He was the 25 appraiser.</p>

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- 1 Q. A real estate appraiser?
- 2 A. A real estate appraiser. My mind is
- 3 slowly working.
- 4 Q. Have you spoken with Mr. Van Hanken?
- 5 A. I did.
- 6 Q. Do you remember when?
- 7 A. I don't -- I don't remember the dates.
- 8 Q. What did you discuss with Mr. Van
- 9 Hanken?
- 10 A. I don't know if I had any discussions
- 11 with him as much as sending him information
- 12 regarding the project.
- 13 Q. Do you recall what information you may
- 14 have sent Mr. Van Hanken regarding the project?
- 15 A. Information regarding the value of
- 16 properties and Lot 7, and I don't remember any
- 17 specific documents, but it was in regard to that.
- 18 Q. Did he ask you for specific documents?
- 19 A. I believe so.
- 20 Q. Do you recall what documents he
- 21 requested of you?
- 22 A. I don't recall exactly, but it was all
- 23 related to values and the size of the property
- 24 and that type of thing.
- 25 Q. And you don't recall what specific

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- 1 Company and Rafael Vinoly?
- 2 Is that how you say it?
- 3 A. Yes, that's how you say it. Yeah,
- 4 this is a proposal.
- 5 Q. This is unsigned?
- 6 A. Yes, unsigned.
- 7 Q. What I've presented to you, was this
- 8 ultimately signed?
- 9 A. No.
- 10 Q. Was Rafael Vinoly actually retained
- 11 for the project?
- 12 A. Yes.
- 13 Q. And Rafael Vinoly was retained
- 14 directly by Coles Jersey?
- 15 A. Yes.
- 16 Q. How about Dresdner Robin, who retained
- 17 Dresdner Robin?
- 18 A. I believe Coles Jersey, LLC.
- 19 MR. ASH: Let's mark this DG-7.
- 20 (Quote is received and marked as
- 21 Exhibit DG-7 for Identification.)
- 22 Q. DG-7 is a quote from Dresdner Robin?
- 23 A. Yes.
- 24 Q. This is a quote to your attention at
- 25 Hoboken Brownstone Company, right?

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- 1 documents you provided to him?
- 2 A. No. Diagrams of -- maybe descriptions
- 3 that I had.
- 4 Q. How about Mr. Vallone; do you know if
- 5 Mr. Vallone had any conversations with Mr. Van
- 6 Hanken?
- 7 A. I don't know. I was certainly dealing
- 8 with this more than he was.
- 9 Q. So you were the primary point of
- 10 contact to Mr. Van Hanken?
- 11 A. Yes.
- 12 Q. Hoboken Brownstone Company retained an
- 13 architect on behalf of Coles Jersey?
- 14 A. No, no. Coles Jersey retained its own
- 15 architect.
- 16 (Agreement between Client and
- 17 Architect is received and marked as Exhibit
- 18 DG-6 for Identification.)
- 19 Q. DG-6 is an agreement between client
- 20 and architect.
- 21 Do you see that?
- 22 A. Yes.
- 23 Q. And it's dated September 10, 2013?
- 24 A. Correct.
- 25 Q. And it's between Hoboken Brownstone

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- 1 A. Yes.
- 2 Q. Did you, on behalf of Hoboken
- 3 Brownstone Company, hire Dresdner Robin to survey
- 4 the property or did Coles Jersey hire them?
- 5 A. Coles Jersey. You know, I see my name
- 6 again, Hoboken Brownstone Company.
- 7 Again, this was not signed. Nine
- 8 times out of ten I would make sure that I would
- 9 never sign this other than for the entity that's
- 10 the owner of the property.
- 11 Q. You're careful not to sign documents
- 12 on behalf of an entity you're not authorized to
- 13 sign documents on behalf of.
- 14 Is that what you're saying?
- 15 A. The responsibility to pay these bills
- 16 was the owner of the property's responsibility,
- 17 not Hoboken Brownstone Company.
- 18 So I would ask -- I try to always ask
- 19 my contractors, who often make a mistake, on who
- 20 things are made out to, to correct those items.
- 21 Q. Again, this document is not signed by
- 22 you?
- 23 A. Correct.
- 24 Q. Ultimately, it was signed by a member
- 25 of Coles Jersey?

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- 1 A. Yes, if it was signed by Coles Jersey,
- 2 I would have signed it.
- 3 Q. You would have signed on behalf of
- 4 Coles Jersey?
- 5 A. On behalf of Coles Jersey, not on
- 6 behalf of Hoboken Brownstone.
- 7 Q. Coles Street Park Development Company,
- 8 LLC, are you and Mr. Vallone individually members
- 9 of that entity or is Hoboken Brownstone Company a
- 10 member of Coles Street Park Development Company,
- 11 LLC?
- 12 A. I believe it's us as individuals.
- 13 Q. Did Coles Jersey also hire Gilbane?
- 14 A. Yes.
- 15 Q. And that was not through Hoboken
- 16 Brownstone Company, that was also through Coles
- 17 Jersey?
- 18 A. Correct.
- 19 Q. CPL, Civil Engineering; Coles Jersey
- 20 hired them directly?
- 21 A. Correct.
- 22 Q. How about Otteau Valuation?
- 23 Who hired Otteau Valuation?
- 24 A. I believe it was Coles Jersey?
- 25 Q. Why was Otteau Valuation hired by

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- 1 Development Company, LLC acquired a portion of
- 2 Lot 7 on Block 6005?
- 3 A. Yes.
- 4 Q. Do you know if Coles Jersey
- 5 Development Company, LLC has been paying real
- 6 estate taxes to Jersey City on a portion of
- 7 Lot 7, Block 6005?
- 8 A. To the best of my knowledge, yes.
- 9 (Letter to Tax Assessor is received
- 10 and marked as Exhibit DG-8 for
- 11 Identification.
- 12 (Witness reviewing exhibit.)
- 13 Q. Who is Janet Feeley?
- 14 A. She's my office manager and
- 15 bookkeeper.
- 16 Q. And have you seen this letter of
- 17 October 10, 2014?
- 18 A. I don't know if I've seen it before,
- 19 but I see it now.
- 20 Q. And do you see this is a letter to the
- 21 tax assessor to update their records because your
- 22 office moved to 305 Gold Street?
- 23 A. Right.
- 24 Q. And Blocks 6005, Lot 7 is not
- 25 indicated in this list, right?

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- 1 Coles Jersey?
- 2 A. To perform a property valuation on the
- 3 tidelands issue on an adjacent block to the one
- 4 that we're discussing.
- 5 Q. Did Mr. Otteau prepare an appraisal of
- 6 that property?
- 7 A. Yes.
- 8 Q. Do you have a copy of that appraisal?
- 9 A. Yes, I believe so.
- 10 Q. I did not see a copy of that appraisal
- 11 in your file, but I did see a proposal for that
- 12 appraisal, so to the extent you have a copy of
- 13 that appraisal, I would ask for that.
- 14 Do you recall what the valuation
- 15 conclusion was of the Otteau appraisal?
- 16 A. Not 100 percent sure. I would be
- 17 throwing out a guess.
- 18 Q. Mr. Dalton doesn't want you to guess
- 19 and I don't want you to guess, so just provide a
- 20 copy of that report to the extent you've
- 21 maintained a copy.
- 22 MR. ASH: Just send me copies of all
- 23 documents.
- 24 MR. DALTON: Sure.
- 25 Q. Do you know if Coles of Jersey

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- 1 A. Correct.
- 2 Q. So do you know if the text assessment
- 3 records for Jersey City include a portion of
- 4 Lot 7 as being owned by Coles Jersey Development
- 5 Company, LLC?
- 6 A. I don't know what Jersey City has in
- 7 their records.
- 8 (City of Jersey City General
- 9 Development Application is received and
- 10 marked as Exhibit DG-9 for Identification.)
- 11 Q. Have you seen this document, DG-9?
- 12 A. Yes.
- 13 Q. Is the application filed on behalf of
- 14 Coles Jersey Development Company, LLC to the
- 15 Jersey City Planning Board?
- 16 A. Yes.
- 17 Q. And you have certified in this
- 18 application that you are an officer of the
- 19 corporate applicant and you are authorized to
- 20 sign the application for the corporation.
- 21 Is that right?
- 22 A. Yes.
- 23 Q. A development approval of subdivision
- 24 and site plan was granted to Coles Jersey by the
- 25 Jersey City Planning Board?

<p>Dans - Direct Page 125</p> <p>1 A. Yes.</p> <p>2 Q. And are those the resolution numbers</p> <p>3 on the first page, 14-039, Subdivision 14-040</p> <p>4 site plan.</p> <p>5 A. I believe so.</p> <p>6 Q. Do you know when the applications for</p> <p>7 subdivision and site plan were approved?</p> <p>8 A. I don't recall our hearing date. I do</p> <p>9 remember that the approval was protected on</p> <p>10 January 31, 2015 -- yeah, January 31, 2015, the</p> <p>11 45-day appeal period ended, so 45 days prior to</p> <p>12 that, you know, we were in front of the board for</p> <p>13 the resolution and probably two or three weeks</p> <p>14 before that we had our hearing date.</p> <p>15 (Series of E-Mails is received and</p> <p>16 marked as the DG-10 for Identification.)</p> <p>17 MR. ASH: Off the record.)</p> <p>18 (Discussion off record.)</p> <p>19 (Recess.)</p> <p>20</p> <p>21 BY MR. ASH:</p> <p>22 Q. Okay, we just marked DG-10.</p> <p>23 On the first page of DG-10 we have an</p> <p>24 e-mail from you to William Ackman, Larry Ackman</p> <p>25 -- that's his father, right?</p>	<p>Dans - Direct Page 127</p> <p>1 see.</p> <p>2 A. I believe that's what we're looking</p> <p>3 at, yes.</p> <p>4 Q. Page 1 is residential Level 1 and 2,</p> <p>5 Page 2 is Levels 3, 4, 5 and 6, and then there</p> <p>6 are the tower levels, a roof level, okay.</p> <p>7 Now I follow it.</p> <p>8 This massing plan prepared by Chester</p> <p>9 Plusus Laskowski Partnership, LLC.</p> <p>10 Do you know when this was prepared?</p> <p>11 A. I think this was prepared right around</p> <p>12 that time that it was presented.</p> <p>13 Q. Around the date of the e-mail,</p> <p>14 September 25, 2013?</p> <p>15 A. I would say that, yes.</p> <p>16 Q. This plan was attached to the e-mail,</p> <p>17 correct?</p> <p>18 A. Correct.</p> <p>19 Q. The attachment file name is 9.213 Cole</p> <p>20 Street Park Retail Option 67 PM.</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. So these documents were created on or</p> <p>24 September 25, 2013.</p> <p>25 Is that fair?</p>
<p>Dans - Direct Page 126</p> <p>1 A. Yes.</p> <p>2 Q. Who is Greg Liss?</p> <p>3 A. Greg is -- operates table management</p> <p>4 development.</p> <p>5 Q. Who is Irwin Cohen?</p> <p>6 A. Irwin Cohen is a friend of Larry's.</p> <p>7 Q. This was dated September 25, 2013 with</p> <p>8 certain attachments to the e-mail, right?</p> <p>9 A. Yes.</p> <p>10 Q. If you look at the -- it says in the</p> <p>11 e-mail that there's a massing diagram.</p> <p>12 Is that what is printed out and</p> <p>13 attached here?</p> <p>14 A. Yes.</p> <p>15 Q. What is a massing diagram?</p> <p>16 A. It shows a conceptual plan of the bulk</p> <p>17 of the bulk buildings and where they're going to</p> <p>18 be located.</p> <p>19 Q. And there are one, two, three, four,</p> <p>20 five different concepts of a massing plan</p> <p>21 attached to this e-mail, right?</p> <p>22 A. These are all the same. These are all</p> <p>23 parts of the same massing diagrams but at</p> <p>24 different levels of the building.</p> <p>25 Q. Different levels of the building, I</p>	<p>Dans - Direct Page 128</p> <p>1 A. That's fair.</p> <p>2 Q. If you look at the first page,</p> <p>3 Residential Level 1 and 2, and if we look at the</p> <p>4 area just east of Monmouth Street we have the</p> <p>5 concept for the development of the Coles Jersey</p> <p>6 property.</p> <p>7 Is that what's depicted here?</p> <p>8 A. Yes, amongst other surrounding</p> <p>9 properties.</p> <p>10 Q. Right. You got -- you can see the</p> <p>11 American Self Storage Building to the north</p> <p>12 depicted, right?</p> <p>13 A. Yup.</p> <p>14 Q. You've got the Cast Iron Lofts to the</p> <p>15 east, so we know where Lot 13 and Lot 7 of Block</p> <p>16 6005 are depicted on this plan, right?</p> <p>17 A. Correct.</p> <p>18 Q. Now, there are no improvements</p> <p>19 proposed for the Lot 7 portion of the Coles</p> <p>20 Jersey property, right?</p> <p>21 A. That's correct.</p> <p>22 Q. Why is that?</p> <p>23 A. The knowledge that a Texas Eastern</p> <p>24 pipe was under the ground there.</p> <p>25 Q. Was under the ground where?</p>

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- 1 A. In Lot 7.
- 2 Q. That knowledge was available to you
- 3 and Coles Jersey as of September 25, 2013?
- 4 A. Yes.
- 5 Q. What was that knowledge based on?
- 6 A. I saw the pipe go in the ground.
- 7 Q. Well, there's no pipe depicted on this
- 8 plan, correct?
- 9 A. Correct.
- 10 Q. Is there pipe that actually encroaches
- 11 on the portion of Lot 7?
- 12 A. Yes.
- 13 Q. There were no improvements proposed
- 14 for Lot 7 because of the actual pipeline?
- 15 A. Yes, that's correct.
- 16 Q. How about on Lot 13, are there
- 17 improvements proposed for Lot 13 over the
- 18 pipeline?
- 19 A. Lot 13 covers more than just where the
- 20 pipe is.
- 21 Q. Do you see two dashed lines on
- 22 Lot 13?
- 23 A. Yes.
- 24 Q. What are those dashed lines?
- 25 A. Those are the easement lines that

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- 1 document showed the location of the easement?
- 2 A. One of the earlier documents that you
- 3 brought out showed me were -- where Texas Eastern
- 4 wanted the easements.
- 5 Q. Are you referring to an attachment to
- 6 DG-2?
- 7 A. Yeah.
- 8 Q. Specifically you are referring to
- 9 drawing number HUD-98.3 dated March 18, 2013 that
- 10 was provided to you on June 5, 2013 by Texas
- 11 Eastern?
- 12 A. Correct.
- 13 Q. And this drawing shows permanent
- 14 easement areas on a portion of Lot 7 and Lot 13?
- 15 A. Correct.
- 16 Q. This is the document you provided to
- 17 the civil engineer?
- 18 A. Yes.
- 19 Q. And what did you explain with regard
- 20 to the easement on Lot 7?
- 21 A. That we could not build on it.
- 22 Q. Because why?
- 23 A. Because there was a pipe in the ground
- 24 there.
- 25 Q. Was it because there was a pipe in the

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- 1 Texas Eastern has.
- 2 Q. Is that the permanent easement area?
- 3 A. That's the permanent easement area.
- 4 Q. On Lot 13?
- 5 A. Correct.
- 6 Q. The southern line has a turn in it.
- 7 Do you see that?
- 8 A. Yes.
- 9 Q. It turns southwest.
- 10 Is that also an easement line?
- 11 A. Yes.
- 12 Q. So was there a Texas Eastern permanent
- 13 easement on Lot 7 as of September 25, 2013?
- 14 A. To the knowledge I had, I believe
- 15 there was.
- 16 Q. When was that easement created, the
- 17 permanent easement on the portion of Lot 7?
- 18 A. I don't know.
- 19 Q. What documentation did Chester Pulsus
- 20 Laskowski Partnership have in their possession to
- 21 be able to plot the permanent easement lines on
- 22 Lot 13 and Lot 7 as of September 25, 2013?
- 23 A. I had given them the location that had
- 24 been discussed with Texas Eastern.
- 25 Q. Do you recall specifically what

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- 1 ground or because there was an easement?
- 2 A. I knew the pipe was in the ground. I
- 3 believed there was an easement.
- 4 Q. And what was your belief or upon what
- 5 information did you believe there was an easement
- 6 on Lot 7 prior to September 25, 2013?
- 7 A. Having written this that the pipe was
- 8 put in the ground.
- 9 Q. To your knowledge, has Texas Eastern
- 10 even acquired an easement on a portion of Lot 7
- 11 prior to September 25, 2013?
- 12 A. I had no knowledge of that.
- 13 MR. ASH: I don't have copies of the
- 14 next documents, but we'll mark them in such a
- 15 way that I can make regular size copies
- 16 instead of the full size.
- 17 (Dresdner Robin Survey, Side 1, is
- 18 received and marked as Exhibit DG-11-A for
- 19 Identification.)
- 20 (Dresdner Robin Survey, Side 2, is
- 21 received and marked as Exhibit DG-11-B for
- 22 Identification.)
- 23 Q. All right. We've marked as 11-A a
- 24 survey prepared by Dresdner Robin and it's a
- 25 draft dated June 21, 2012 for CH Acquisitions.

<p>Dans - Direct Page 133</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And I'm going to mark 11-B the other</p> <p>4 side of the survey with the portion of Lot 7, and</p> <p>5 do you see a description in Lot 7 area which is</p> <p>6 highlighted shaded in gray and it reads "Area of</p> <p>7 questionable title possible owner New Jersey</p> <p>8 Transit Corporation."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Do you recall reviewing survey in</p> <p>12 June 2012?</p> <p>13 A. Yes.</p> <p>14 Q. And did you have any questions for the</p> <p>15 surveyor as to the area identified as being of</p> <p>16 questionable title?</p> <p>17 A. I don't know if I had my concerns to</p> <p>18 the surveyor or to the -- to Crescent Heights,</p> <p>19 but I had questions about that, yes.</p> <p>20 Q. And that was as of June 2012?</p> <p>21 A. In June 2012. I'm sorry, I'm sorry.</p> <p>22 You know, this is -- I believe this</p> <p>23 document is dated improperly.</p> <p>24 And I can't believe that Crescent</p> <p>25 Heights, at this time of the year in 2012 --</p>	<p>Dans - Direct Page 135</p> <p>1 Acquisitions by Dresdner Robin of the Ogden</p> <p>2 Tracts as of June 21, 2013.</p> <p>3 The area of Lot 7, which I'm going to</p> <p>4 mark DG 12-B says "Area of questionable title,</p> <p>5 possible owner, New Jersey Transit Corporation."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. This is the title issue that prevented</p> <p>9 C. H. Acquisitions from closing on the Ogden</p> <p>10 properties?</p> <p>11 A. That's the reason they gave us.</p> <p>12 Q. There's a note 13 under the "Notes"</p> <p>13 and it reads --</p> <p>14 MR. ASH: Let's mark this 12-C.</p> <p>15 (Note 13 is received and marked as</p> <p>16 Exhibit DG-12-C for Identification.)</p> <p>17 Q. Note 13, which I've marked 12-C, reads</p> <p>18 "The subject premises, Block 6005, Lot 13 is</p> <p>19 subject to a Spectra Energy underground natural</p> <p>20 gas transmission line. Mapping of the location</p> <p>21 is pending. The proposed location of said gas</p> <p>22 line is shown on drawings prepared by SGC</p> <p>23 Engineering, LLC drawing number HUD 98.3 dated</p> <p>24 March 18, 2013 and drawing LD-P-9085, dated</p> <p>25 April 9, 2012. Exception: No. 14 under</p>
<p>Dans - Direct Page 134</p> <p>1 I didn't have to ask them to do this during that</p> <p>2 time for sure, so maybe I never saw -- I think</p> <p>3 this is dated improperly.</p> <p>4 Q. Okay. Is that consistent with your</p> <p>5 recollection of the timeline negotiations between</p> <p>6 Hoboken Brownstone, CH Acquisitions, they were in</p> <p>7 2013?</p> <p>8 A. Yes.</p> <p>9 Q. There's another progress print that's</p> <p>10 dated June 21, 2012 which is also, you think, a</p> <p>11 typographical error in the date?</p> <p>12 A. Correct.</p> <p>13 Q. So then we move on to June 21, 2013,</p> <p>14 another survey for C.H. Acquisitions.</p> <p>15 MR. ASH: Let's mark this 12-A and</p> <p>16 B, please.</p> <p>17 (C.H. Acquisitions Survey, Side 1) is</p> <p>18 received and marked as Exhibit DG-12-A for</p> <p>19 Identification.)</p> <p>20 (C.H. Acquisitions Survey, Side 2,</p> <p>21 is received and marked as Exhibit DG-12-B for</p> <p>22 Identification.)</p> <p>23 Q. So I'm going to mark 12-A near the</p> <p>24 title, the key, if you will, of the survey.</p> <p>25 This is a survey prepared for C. H.</p>	<p>Dans - Direct Page 136</p> <p>1 investigation."</p> <p>2 Do you know what "Exception 14" refers</p> <p>3 to on the survey?</p> <p>4 A. No.</p> <p>5 Q. I don't see an exception 14 on this</p> <p>6 survey. Is there another document you may refer</p> <p>7 to?</p> <p>8 A. I don't know.</p> <p>9 Q. Do you know what was still under</p> <p>10 investigation as of June 21, 2013 by the</p> <p>11 surveyor?</p> <p>12 A. The ownership of the property, of that</p> <p>13 property.</p> <p>14 Q. Of the Lot 7 property?</p> <p>15 A. Yes.</p> <p>16 MR. ASH: I'm going to mark this as</p> <p>17 DG-13-A. This is a survey, again, prepared</p> <p>18 Dresdner Robin, this time it's called "Jersey</p> <p>19 Development Company." The date is October 9,</p> <p>20 2013.</p> <p>21 (Dresdner Robin Survey (Side 1) is</p> <p>22 received and marked as Exhibit DG 13-A for</p> <p>23 Identification.)</p> <p>24 Q. This is the survey that Dresdner Robin</p> <p>25 prepared for Coles Jersey as a result of</p>

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1 Coles Jersey hiring them to survey the
2 property?
3 A. Correct.
4 MR. ASH: I'm going to mark DG-13-B
5 the portions of the survey near the Lot 7
6 portion which, again, is shaded in a light
7 gray and it reads, "Area of questionable
8 title, possible owner, New Jersey Transit
9 Corporation. See reference No. 4."
10 (Survey/Lot 7 is received and marked
11 as Exhibit DG-13-B for Identification.)
12 Q. There's a reference No. 4 to the
13 Holland Park Block 329, LLC Topographic Boundary
14 Survey.
15 Do you have a copy of that survey?
16 A. No.
17 Q. Do you recall seeing a copy of that
18 survey?
19 A. No.
20 MR. ASH: I'm going to mark DG-13-C
21 again, near the notes on the survey and note
22 13 reads "The subject premises, Block 6005,
23 Lot 13 is subject to a Spectra Energy
24 Underground Natural Gas Transmission line.
25 Mapping of the location is pending. The

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1 Q. It no longer reads "Area of
2 Questionable Title" on Lot 7, correct?
3 A. Correct.
4 Q. What determination was made between
5 October 7, 2013 and October 17, 2013 with regard
6 to the status of title of the Block 6005 portion
7 of Lot 7 as depicted on this survey?
8 A. I don't recall the documents that --
9 why the surveyor didn't think that property was
10 owned by Ogden originally.
11 Q. Do you recall providing any documents
12 to the surveyor between October 7, 2013 and
13 October 17, 2013 that would have changed an
14 opinion as to the status of title of Block 6005
15 part of Lot 7?
16 A. I don't recall if I had given her any
17 title information or not.
18 Q. Do you know if any additional
19 information or documentation had been discovered
20 by Coles Jersey or any consultant of Coles Jersey
21 as of October 17, 2013 that would have answered a
22 question as to a cloud on title for a part
23 Lot 7 of Block 6005?
24 A. No additional information from since
25 the closing.

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1 proposed location of said gas line is shown
2 on drawings prepared by SGC Engineering, LLC
3 drawing No. HUD 98.3 dated March 18, 2013 and
4 drawing No. LD-P-9085 dated April 9, 2012."
5 (Notes of Survey are received and marked
6 as Exhibit DG-13-C for Identification.)
7
8 BY MR. ASH:
9 Q. As of October 9, 2013 Lot 7 was still
10 an area of questionable title?
11 A. Not to me.
12 Q. To your surveyor it was, correct?
13 A. I can't assume. I guess so.
14 MR. ASH: I'm going to mark DG-14-A,
15 it's a survey prepared by Dresdner Robin for
16 Coles Jersey Development Company, LLC as of
17 October 17, 2013.
18 I'm going to mark DG-14-B near the
19 area of Block 6005, part of Lot 7.
20 (Dresdner Robin Survey, 10/17/2013, is
21 received and marked as Exhibit DG-14-A for
22 Identification.)
23 (Area near Block 6005, Lot 7 is
24 received and marked as Exhibit DG-14-B for
25 Identification.)

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1 Q. That you're aware of?
2 A. That I'm aware of, yes.
3 Q. And do you have a belief as to why the
4 surveyor changed the depiction of Lot 7 as of
5 October 17, 2013?
6 A. It would be the title information. I
7 was confident about it.
8 Q. Was he provided with the title
9 information as of October 7, 2013 when he still
10 showed Lot 7 as an area of questionable title?
11 A. I don't know.
12 MR. ASH: I'm going to mark DG-14-C
13 near the portion of the survey where the
14 notes are indicated.
15 (Notes on Survey is received and
16 marked as Exhibit DG-14-C for
17 Identification.)
18 Q. And note 11 reads "Part of Lot 7 and
19 Lot 13 in Block 6005 is subject to an unrecorded
20 permanent easement granted to Texas Eastern
21 Transmission, LP which is shown on map entitled
22 "Permanent Easement Location Hudson County, New
23 Jersey, City of Jersey City, Tract HUD 98.3
24 prepared by SGC Engineering, LLC, dated
25 September 30, 2013, alignment sheet No. LDA 1077,

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1 drawing No. HUD 98.3."
 2 What unrecorded easement is referred
 3 to in note 11 of DG-14-C?
 4 A. The questioned property, the
 5 questioned Lot 7.
 6 Q. It's your testimony that the portion
 7 of Lot 7 owned by Coles Jersey was subject to an
 8 easement for the benefit of Texas Eastern as of
 9 October 17, 2013?
 10 A. I was -- I did not know. I did not
 11 know. The surveyor put these marks on it. I was
 12 not -- I didn't do any research on that.
 13 Q. What information was provided to the
 14 surveyor for him to conclude that there was an
 15 unrecorded easement on the portion of Lot 7 and
 16 Block 6005?
 17 A. He refers to SGC Engineering, and I
 18 don't know who that is.
 19 Q. Well, he refers to an unrecorded
 20 easement, right?
 21 So there was no title record that
 22 would have been recorded that he would have
 23 access to to indicate the location of an
 24 easement, so what information was he provided to
 25 show an easement?

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1 of October 7, 2013, and now DG-14, as of
 2 October 17, 2013.
 3 Did you review these surveys with
 4 Mr. Ackman?
 5 A. No.
 6 Q. Did you indicate to Mr. Ackman or any
 7 other representative of Coles Jersey that Texas
 8 Eastern had permanent easements on Lot 13 and
 9 Lot 7 as of October 17, 2013?
 10 A. Yes.
 11 Q. And what was that discussion with
 12 regard to the existence of the Texas Eastern
 13 easement on Lot 13 and Lot 7, Block 6005, Jersey
 14 City as of October 17, 2013?
 15 A. That these pipes were in the ground
 16 and these were depictions of the areas that we
 17 could build in.
 18 And based upon the knowledge we had,
 19 that this is what we could build, where we could
 20 build?
 21 Q. That you could not build in the shaded
 22 areas on DG-14?
 23 A. That's correct.
 24 Q. And what was Mr. Ackman's response?
 25 A. Mr. Ackman is not involved in

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1 A. Possibly the drawings that we had in
 2 Exhibit DG-2, in the back of that, I may have
 3 shared that document with him.
 4 Q. That would be the drawing Tract 98.3
 5 which was prepared by SGC engineers as of
 6 March 18, 2013?
 7 A. Okay, yes.
 8 Q. And that was provided to the surveyor
 9 with the information that that was a permanent
 10 easement in favor of Texas Eastern?
 11 A. That was -- yes.
 12 Q. And that permanent easement is
 13 depicted as of October 17, 2013 on the Dresdner
 14 Robin survey as to both Lots 13 and a portion of
 15 Lot 7?
 16 MR. DALTON: Objection to form.
 17 You can answer.
 18 A. Yes.
 19 Q. Now, up until the closing is it your
 20 testimony that you had not discussed the
 21 existence of a Texas Eastern pipeline or easement
 22 with Mr. Ackman?
 23 A. That's correct.
 24 Q. We've since reviewed a number of
 25 surveys prepared for Coles Jersey specifically as

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1 reviewing and looking over these documents.
 2 Q. But you did have a discussion with him
 3 specifically?
 4 A. Not with him, specifically, no, not
 5 with Bill Ackman.
 6 Q. With who specifically did you have a
 7 discussion with?
 8 Who was a representative of Coles
 9 Jersey as to the existence of --
 10 A. Greg Liss and Larry Ackman.
 11 Q. Let me finish my question.
 12 A. Sorry.
 13 Q. Who was the representative of Coles
 14 Jersey that you had a specific conversation with
 15 with regard to the existence of permanent
 16 easements for the benefit of Texas Eastern on
 17 Lots 13 and a portion of 7 as they're shown on a
 18 survey for Coles Jersey as of October 17, 2013?
 19 A. I don't recall the dates of when we
 20 started discussing the easements specifically.
 21 Q. But you do recall having
 22 conversations?
 23 A. Yes.
 24 Q. With Mr. Liss. Is that right?
 25 A. Yes.

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1 Q. Anyone else?
2 A. And Larry Ackman.
3 Q. And Larry Ackman.
4 Was that one conversation with
5 Mr. Ackman and Mr. Liss together?
6 A. They were both aware of it at some
7 point. I made them aware of it at some point.
8 I don't remember when, but certainly
9 while we were creating the documents, the
10 drawings, we were aware that there was a pipe in
11 the ground.
12 Q. When you were creating drawings other
13 than this survey?
14 A. Yes.
15 Q. What drawings; concept plans?
16 A. Concept bulk studies as we looked at
17 earlier.
18 Q. Was there a concern by a
19 representative of Coles Jersey that there would
20 be a loss of residential units because of the
21 easements on Lot 13 and Lot 7?
22 A. Yes.
23 Q. What was the concern?
24 A. That we were losing square footage and
25 it was a concern.

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1 A. Yes, it was.
2 Q. If you look at the area of the Coles
3 Jersey property depicted, the portion of Lot 7,
4 do you see it says, "E-LRWY Company, second
5 class, part Lot 7," do you see that.
6 (Witness reviewing exhibit.)
7 (Witness getting glasses.)
8 A. I don't even know if I can read them
9 with these, my cheaters. All right. That's
10 better.
11 (Witness reviewing notes.)
12 A. I see that.
13 Q. You see that.
14 Do you know if that portion of Lot 7
15 is actually encumbered by an old freight line for
16 the benefit of Erie Lackawanna Railway?
17 A. It's encumbered by --
18 Q. And old freight rail line for Erie
19 Lackawanna Railway.
20 A. There are no lines in the road.
21 There's no tracks there.
22 Q. Do you know why this is indicated on
23 15-A?
24 A. No.
25 Q. Let's look at Page 3 that is marked

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1 Q. Was there a discussion about being
2 able to accommodate density in other places where
3 square footage of the easements were lost?
4 A. There was discussions of the hopes of
5 that. Knowing the existing redevelopment plan,
6 there was no opportunity to regain that.
7 MR. ASH: Let's mark this 15, please.
8 I'm going to mark the first page DG-15-A and
9 mark Page 3 of the set 15-B.
10 (Vicinity Map is received and marked
11 as Exhibit DG-15-A for Identification.)
12 (Sheet 5 of 18 is received and
13 marked as Exhibit DG-15-B for
14 Identification.)
15 (Witness reviewing exhibits.)
16 Q. So with regard to DG-15-A, what is
17 this document?
18 A. The vicinity map for what we called
19 the Coles Street Redevelopment Project.
20 Q. This is sheet 2 of 18 as of July 22,
21 2014. Do you see that?
22 A. Yes.
23 Q. Was this part of the submission to the
24 Jersey City Planning Board for development
25 approvals?

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1 15-B.
2 This is sheet 5 of 18 dated July 24,
3 2014. It's the preliminary and final site plan
4 for Coles Street Redevelopment.
5 A. Sheet 5 of 18.
6 Q. Right.
7 A. Yup.
8 Q. This was also submitted to the Jersey
9 City Planning Board as part of your site plan
10 application?
11 A. That's correct.
12 Q. Now, if you go to Lot 7 you include
13 that portion as owned by Coles Jersey, correct?
14 A. Correct.
15 Q. Your proposed improvements, do they
16 include squaring off the block of Monmouth Street
17 at the intersection of 18th Street?
18 A. Yes.
19 Q. And between the intersection of
20 Monmouth Street and 18th Street and the edge of
21 the property or the boundary of the property,
22 Lot 7, owned by Coles Jersey, who owned that
23 property?
24 A. I believe New Jersey Transit.
25 Q. And do you propose improving New

<p>Dans - Direct Page 149</p> <p>1 Jersey Transit's property with a park or some 2 other improvement? 3 A. The city requested the extension of 4 Monmouth Street and 18th Street and the creation 5 of sidewalks on that property. 6 Q. If you look at the portion of Lot 7 7 along the western boundary with the New Jersey 8 Transit property you identified, we have a curb, 9 correct? 10 A. Correct. 11 Q. And it continues, the curb on the plan 12 continues along in a northeasterly direction. 13 Do you see that? 14 A. Yes. 15 Q. There are two parallel lines that 16 follow the same tangent, right? 17 A. Yes. 18 MR. DALTON: Is that the long then 19 the short short long? 20 MR. ASH: Yes. 21 MR. DALTON: Okay, got it. 22 Q. Is that a freight rail line depicted 23 on that plan? 24 A. Don't know. 25 Q. Do you know if New Jersey Transit has</p>	<p>Dans - Direct Page 151</p> <p>1 Q. And the easement area on Lot 13 2 includes a beach volleyball court and a portion 3 of the Coles Street Park. 4 Is that right? 5 A. That's correct. 6 Q. At any time was there any concept plan 7 that showed potential improvements aside from 8 green space for a lawn in the portion of Lot 7 9 owned by Coles Jersey? 10 A. No. 11 Q. Did the permanent easement for the 12 benefit of Texas Eastern on the portion of Lot 7 13 reduce the residential building potential of the 14 overall Coles Jersey project as depicted on 15-B? 15 A. Absolutely. 16 Q. And how many units were lost? 17 A. That's an architect's question. I 18 believe it was 21. 19 Q. Did the permanent easement for the 20 benefit of Texas Eastern on a portion of Lot 7 21 reduce the economies of the plan development that 22 would result from a modified structure with a 23 reduced number of buildable units? 24 A. Yes. 25 Q. How so?</p>
<p>Dans - Direct Page 150</p> <p>1 plans to extend the Hudson Bergen Light Rail 2 through this property? 3 A. I know they currently do not. 4 Q. Has it been talked about in some 5 conceptual phase by New Jersey Transit, to your 6 knowledge? 7 A. I've been told by people at New Jersey 8 Transit not in their lifetime. 9 Q. You're aware of all the freight rail 10 lines acquired by New Jersey Transit that would 11 potentially create the possibility of a light 12 rail extension on this property, correct? 13 A. I'm aware that New Jersey Transit 14 bought this property to build the existing Hudson 15 Bergen Light Rail Line. 16 Q. Do you know what New Jersey Transit 17 purchased the property for Hudson Bergen Light 18 Rail Line from the Erie Lackawanna Railway 19 Company? 20 A. I'm not sure who they purchased it 21 from. 22 Q. On this site plan marked 15-B, the 23 portion of Lot 7 is designated as Long Park. 24 Do you see that? 25 A. Yes.</p>	<p>Dans - Direct Page 152</p> <p>1 A. I believe so. 2 Q. How so? 3 A. Less square footage is less efficient 4 to build. 5 Q. Is it true that there were no 6 improvements proposed for the portion of Lot 7 at 7 any time by Coles Jersey Development because 8 there were underground electrical lines that run 9 through Lot 7? 10 A. There was always the knowledge that 11 the gas pipe was underground there too. 12 Q. Are you aware of underground 13 electrical lines that run through Lot 7? 14 A. I was made aware of that. 15 Q. And was the property encumbered with 16 electrical lines prior to the installation of the 17 Spectra Texas Eastern natural gas pipeline? 18 A. There were lines in the ground there 19 that -- 20 Q. The electrical lines predated the 21 Texas Eastern pipeline, correct? 22 A. Correct. 23 Q. And we're not just talking about 24 underground conduit lines, these are oil cooled 25 very significant capacity electrical lines, to</p>

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1 your knowledge?
2 A. That's what I've been told.
3 Q. These aren't the type of electrical
4 lines that can typically be rerouted or relocated
5 as part of a typical development at the cost of
6 the developer, correct?
7 A. I never investigated it.
8 Q. Isn't it true that there were no
9 improvements proposed for a portion of Lot 7 on
10 Block 6005 at any time by Coles Jersey because
11 it's an area of questionable title?
12 A. No, that was not the reason.
13 Q. Isn't it true that there's been no
14 improvement proposed at any time for a portion of
15 Lot 7 by Coles Jersey because there's a freight
16 rail line that runs through Lot 7?
17 A. No, that was not a concern.
18 Q. The area of 5,457 square feet as a
19 portion of Lot 7, was that included in the
20 overall density calculation for the overall yield
21 of the project in your site plan application?
22 A. Yes.
23 Q. The portion of Lot 7 that's depicted
24 as a lawn park, did that allow the developer
25 applicant to receive a density bonus through the

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1 CROSS-EXAMINATION BY MR. WEGENER:
2
3 Q. Going back to DG-2, all right, the
4 sheet bearing Bates stamp 244, what is that,
5 again, that graph or analysis of numbers?
6 A. I believe this was the investment that
7 Mr. Vallone or an entity that we were involved
8 with --
9 Q. I'm sorry, who?
10 A. Mr. Vallone and I had invested over
11 the many years that we have been involved with
12 this property. It's just to show that we had
13 skin in the game.
14 Q. That's the investment that Hoboken
15 Brownstone had put up so far?
16 A. Hoboken Brownstone and another entity
17 that Mr. Vallone and I had.
18 Q. Well, the contract was from Ogden
19 Realty to Hoboken Brownstone Company, right, the
20 contract?
21 A. Right, but these funds probably date
22 back to 2007.
23 Q. I'm sorry, what was the date of the
24 contract that we were --
25 A. 2013.

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1 dedication of open space under the redevelopment
2 plan?
3 A. No.
4 Q. Why not?
5 A. It wasn't required. What gave the
6 developer a density bonus was the large park that
7 spans Lot 6004 and 6005 and 17th Street.
8 That allowed for a density bonus, one
9 of things that allowed for a density bonus.
10 Q. Do you know if the beach volleyball
11 court is a permitted use within the Texas Eastern
12 permanent easement area?
13 A. I was -- I'm not sure.
14 Q. Have you or a representative of Coles
15 Jersey requested permission to build any
16 improvements in the easement area of Texas
17 Eastern?
18 A. No.
19 MR. ASH: I have nothing further.
20 MR. WEGENER: Let me just ask a
21 question.
22
23
24
25

Dans - Cross

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1 Q. 2013. The first contract in 2007 was
2 between, again, Ogden and who?
3 A. I can't remember the entity that we
4 used at the time.
5 Q. But it wasn't Hoboken Brownstone?
6 A. It may have been.
7 Q. And the contract that was assigned to
8 was it Crescent?
9 A. Yes.
10 Q. That contract was dated what?
11 A. April 2013 to March 2013.
12 Q. And the monies represented in DG-2
13 were part of those monies spent by Hoboken
14 Brownstone in pursuance of the contract, the 2013
15 contract?
16 A. No.
17 Q. When was the assignment from Hoboken
18 Brownstone to Crescent?
19 A. Within ten days of signing the
20 contract in March 2013.
21 Q. And once that contract was assigned to
22 Crescent, did you have any interest in the
23 property?
24 When I say "you", that's Hoboken
25 Brownstone; you were in your hat as Hoboken

<p>Dans - Cross Page 157</p> <p>1 Brownstone Company?</p> <p>2 A. I don't think we had a legal position</p> <p>3 at that point.</p> <p>4 Q. You had no legal position?</p> <p>5 A. No legal position on it.</p> <p>6 Q. But you said you expected to own the</p> <p>7 property if they closed on it.</p> <p>8 Is that it?</p> <p>9 A. I expected at some point after the</p> <p>10 closing that they would bring us, Hoboken</p> <p>11 Brownstone, Mr. Vallone and myself or an entity</p> <p>12 that we were involved in into the ownership.</p> <p>13 Q. And what was the basis for that</p> <p>14 understanding?</p> <p>15 A. At the time we had a contract on the</p> <p>16 Van Leer site; good faith.</p> <p>17 Q. In a prior course of dealing with the</p> <p>18 Van Leer site that's how -- that's how the</p> <p>19 property was developed?</p> <p>20 A. That's how they were brought in. They</p> <p>21 had a contract on the Van Leer site. We showed</p> <p>22 them the Ogden site and assigned the contract.</p> <p>23 Q. What was your interest in the Van Leer</p> <p>24 site?</p> <p>25 A. A small percentage -- there were lots</p>	<p>Dans - Cross Page 159</p> <p>1 A. No.</p> <p>2 Q. When you discussed the transaction</p> <p>3 with -- was it Coles Jersey or -- Bill, before</p> <p>4 you had a deal you were discussing it with Bill,</p> <p>5 right, Bill Ackman, right?</p> <p>6 A. Yes.</p> <p>7 Q. And did you discuss with him the fact</p> <p>8 that you had already laid out close to half a</p> <p>9 million dollars on the -- on this property to put</p> <p>10 the deal together?</p> <p>11 A. Probably.</p> <p>12 Q. So he understood that you expected an</p> <p>13 equity interest in the property?</p> <p>14 A. Yes, that we hoped for an equity</p> <p>15 position.</p> <p>16 Q. Pardon?</p> <p>17 A. That we hoped for an equity position</p> <p>18 in the property.</p> <p>19 Q. You understood that that was your</p> <p>20 reasonable expectation for putting the deal</p> <p>21 together and bringing it to him, right?</p> <p>22 A. Yes.</p> <p>23 Q. Did you ever give the assignment of</p> <p>24 the contract to Ogden or anyone from Ogden, Paul</p> <p>25 Hennessy or anyone represented by --</p>
<p>Dans - Cross Page 158</p> <p>1 of fees involved with it.</p> <p>2 Q. Were you the developer?</p> <p>3 Was Brownstone the developer of the</p> <p>4 Van Leer site?</p> <p>5 A. We were going to assist -- Crescent</p> <p>6 Heights was the majority owner and we would</p> <p>7 assist them.</p> <p>8 Q. And did you have an agreement with</p> <p>9 them a written agreement to assist them and</p> <p>10 compensation?</p> <p>11 A. Yes, it was a pending contract. It</p> <p>12 was never executed, that contract.</p> <p>13 We had a contract that they never</p> <p>14 performed on. They didn't perform on this one</p> <p>15 and shortly after they didn't close on the Ogden</p> <p>16 site, they opted out of the Van Leer site.</p> <p>17 Q. You're talking about Crescent?</p> <p>18 A. Crescent opted out of that site.</p> <p>19 Q. But Crescent did close on the Van Leer</p> <p>20 site?</p> <p>21 A. No.</p> <p>22 Q. Did they close on any sites?</p> <p>23 A. Nope, not with me.</p> <p>24 Q. So the \$412,000, did you ever get that</p> <p>25 \$412,000 back?</p>	<p>Dans - Cross Page 160</p> <p>1 A. I don't know.</p> <p>2 Q. You don't know or no?</p> <p>3 A. I don't know.</p> <p>4 Q. You don't?</p> <p>5 A. I don't know.</p> <p>6 Q. So far as you know, he was -- did you</p> <p>7 ever explain your relationship with Crescent to</p> <p>8 Mr. Hennessy?</p> <p>9 A. Yes.</p> <p>10 Q. What did you tell him?</p> <p>11 A. That we had signed the contract, I'm</p> <p>12 sure we told him that, the funds came from</p> <p>13 Crescent, so we explained our relationship with</p> <p>14 Crescent at the time and that they were going to</p> <p>15 fund the project. They were going to be the ones</p> <p>16 funding the project.</p> <p>17 Q. They were going to fund the project</p> <p>18 and you were going to develop it?</p> <p>19 A. Yes, Hoboken Brownstone along with</p> <p>20 Crescent Heights. Crescent Heights is a very</p> <p>21 large developer and very capable.</p> <p>22 Q. Some kind of joint venture or</p> <p>23 affiliated venture, right?</p> <p>24 A. Yes.</p> <p>25 MR. WEGENER: Okay. Nothing further.</p>

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1 MR. ASH: Before we close the record,
2 I just wanted to say I made a request for
3 certain documents today.
4 I will write a letter to you and just
5 outline the requests, but to the extent I
6 have questions about those documents I just
7 reserve the right to reopen this deposition
8 and continue.
9 MR. DALTON: No objection.
10 MR. ASH: Okay. We can close the
11 record.
12 (Deposition adjourned 4:30 p.m.)
13 (Exhibits retained by counsel.)
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C E R T I F I C A T E

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2
3
4
5 I CERTIFY that the foregoing is a true and
6 accurate transcript of the testimony as taken by
7 and before me stenographically at the time and
8 place aforementioned.
9
10

11 I FURTHER CERTIFY that I am neither attorney
12 for nor counsel to any of the parties; parties of
13 any of the attorneys in this action; and that I
14 am not financially interested in the outcome of
15 this case.
16

17
18 SUSAN GIOFFRE, CCR
19 License No. XI001220
20 Notary Public of the State of New Jersey
21
22
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W I T N E S S C E R T I F I C A T E

1
2
3
4
5 I have read the foregoing transcript and
6 do hereby certify that it is a true and accurate
7 transcript of my testimony.
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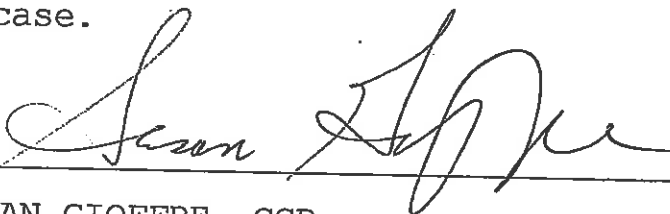
DANIEL GANS

16 Sworn and subscribed to before me
17 On the day of , 2015
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20
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24
25

C E R T I F I C A T E

I CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken by and before me stenographically at the time and place aforementioned.

I FURTHER CERTIFY that I am neither attorney for nor counsel to any of the parties; parties of any of the attorneys in this action; and that I am not financially interested in the outcome of this case.

A handwritten signature in cursive script, appearing to read "Susan Gioffre", is written over a horizontal line.

SUSAN GIOFFRE, CCR
License No. XI001220
Notary Public of the State of New Jersey

